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FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Murphy approves bill to eliminate AirBnB tax on summer rentals,"
NJBIZ (New Brunswick, NJ) - August 9, 2019

"Murphy to eliminate AirBnB tax on summer rentals."
NJBIZ (New Brunswick, NJ) - August 9, 2019

"Governor rolls back short-term rental tax for some,"
Associated Press: Cherry Hill Metro Area (NJ) - August 9, 2019

"New Jersey governor signs law rolling back rental tax,"
Associated Press State Wire: New Jersey (NJ) - August 9, 2019

"Murphy kills controversial Shore rental tax,"
The Times, (Trenton, NJ) - August 10, 2019

"Gov. kills Shore rental tax, but critics charge damage already done Rentals,"
The Star-Ledger, (Newark, NJ) - August 10, 2019

"VACATION RENTALS GET BOOST - MURPHY SIGNS LAW ENDING 11.6% 'AIRBNB' TAX FOR SOME,"
The Record, (Hackensack, NJ) - August 10, 2019

"Governor signs law rolling back rental tax for shore homeowners," The Press of Atlantic City, August 10, 2019

"Murphy kills controversial Shore rental tax," The Times, August 10, 2019

RWH/CL

P.L. 2019, CHAPTER 235, *approved August 9, 2019*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, Nos. 4814 and 4520

1 AN ACT concerning transient accommodation taxes and fees,
2 amending various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to read
8 as follows:

9 84. As used in sections 82 through 85 of P.L.2015, c.19 (C.5:10A-
10 82 et seq.):

11 "Commission" means the New Jersey Sports and Exposition
12 Authority, which may be referred to as the "Meadowlands Regional
13 Commission," as established by section 6 of P.L.2015, c.19 (C.5:10A-
14 6).

15 "Constituent municipality" means any of the following
16 municipalities: Carlstadt, East Rutherford, Little Ferry, Lyndhurst,
17 Moonachie, North Arlington, Ridgefield, Rutherford, South
18 Hackensack, and Teterboro in Bergen county; and Jersey City, Kearny,
19 North Bergen, and Secaucus in Hudson county.

20 "Meadowlands district" means the Hackensack Meadowlands
21 District, the area delineated within section 5 of P.L.2015,
22 c.19 (C.5:10A-5).

23 ²"Obtained through a transient space marketplace" means that
24 payment for the accommodation is made through a means provided
25 by the marketplace or travel agency, either directly or indirectly,
26 regardless of which person or entity receives the payment, and
27 where the contracting for the accommodation is made through the
28 marketplace or travel agency.²

29 ¹"Professionally managed unit" means a room, group of rooms, or
30 other living or sleeping space for the lodging of occupants in the State,
31 that is offered for rent as a rental unit that does not share any living or
32 sleeping space with any other rental unit, and that is directly or
33 indirectly owned or controlled by a person offering for rent two or
34 more other units during the calendar year.¹

35 "Public venue" means any place located within the Meadowlands
36 district, whether publicly or privately owned, where any facilities for
37 entertainment, amusement, or sports are provided, but shall not include
38 a movie theater.

39 "Public event" means any spectator sporting event, trade show,
40 exposition, concert, amusement, or other event open to the public that

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 17, 2019.

²Senate floor amendments adopted June 20, 2019.

1 takes place at a public venue, but shall not include a major league
2 football game.

3 "Residence" means a house, condominium, or other residential
4 dwelling unit in a building or structure or part of a building or
5 structure that is designed, constructed, leased, rented, let or hired out,
6 or otherwise made available for use as a residence.

7 "Transient accommodation" means a room, group of rooms, or
8 other living or sleeping space for the lodging of occupants, ¹if
9 obtained through a transient space marketplace,¹ including but not
10 limited to residences or buildings used as residences ¹, that is obtained
11 through a transient space marketplace or is a professionally managed
12 unit¹. "Transient accommodation" does not include: a hotel or hotel
13 room; a room, group of rooms, or other living or sleeping space used
14 as a place of assembly; a dormitory or other similar residential facility
15 of an elementary or secondary school or a college or university; a
16 hospital, nursing home, or other similar residential facility of a
17 provider of services for the care, support and treatment of individuals
18 that is licensed by the State; a campsite, cabin, lean-to, or other similar
19 residential facility of a campground or an adult or youth camp; a
20 furnished or unfurnished private residential property, including but not
21 limited to condominiums, bungalows, single-family homes and similar
22 living units, where no maid service, room service, linen changing
23 service or other common hotel services are made available by the
24 lessor and where the keys to the furnished or unfurnished private
25 residential property, whether a physical key, access to a keyless
26 locking mechanism, or other means of physical ingress to the
27 furnished or unfurnished private residential property, are provided to
28 the lessee at the location of an offsite real estate broker licensed by the
29 New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.
30 ²1, and provided that the rental is entirely facilitated by the real estate
31 broker¹²; or leases of real property with a term of at least 90
32 consecutive days.

33 "Transient space marketplace" means **[an online]** a marketplace or
34 travel agency through which a person may offer transient
35 accommodations **[or hotel rooms]** to **[individuals]** customers and
36 through which customers may arrange ²**[and pay]**² for occupancies of
37 transient accommodations ²**[1; provided that the transient space**
38 marketplace collects the payment on behalf of the person offering the
39 transient accommodation¹². **[A "transient space marketplace" allows**
40 transient accommodations or hotel rooms to be advertised or listed
41 through an online marketplace in exchange for consideration or
42 provides a means for a customer to arrange for the occupancy of the
43 transient accommodation or hotel room in exchange for consideration.
44 A 'transient space marketplace' shall not include an online marketplace
45 operated by or on behalf of a hotel or hotel corporation that facilitates
46 customer occupancy solely for the hotel or hotel corporation's owned
47 or managed hotels and franchisees, and shall not include a travel

1 agency or an online travel agency.】 “Transient space marketplace”
2 does not include a marketplace or travel agency that exclusively offers
3 transient accommodations ¹in the State¹ owned by the owner of the
4 ²【transient space】² marketplace ²or travel agency².
5 (cf: P.L.2018, c.132, s.4)
6

7 ¹2. Section 85 of P.L.2015, c.19 (C.5:10A-85) is amended to
8 read as follows:

9 85. a. (1) Beginning on the first day of the first month next
10 following the enactment of P.L.2015 c.19 (C.5:10A-1 et al.), there
11 is imposed a Meadowlands regional hotel use assessment on the
12 rent for the occupancy of every room in every hotel or transient
13 accommodation located in the Meadowlands district, including any
14 hotels located on land owned by the State.

15 (2) Beginning on the first day of the first month next following
16 the enactment of P.L.2018, c.52, the Meadowlands regional hotel
17 use assessment shall be applied on the rent for the occupancy of
18 every room in every hotel or transient accommodation located
19 outside of the Meadowlands district, but within a constituent
20 municipality, including any hotels located on land owned by the
21 State.

22 (3) The assessment imposed under this subsection shall be 3%
23 of the rent charged for every occupancy of a room or rooms in a
24 hotel or transient accommodation subject to taxation pursuant to
25 subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3), and
26 shall be paid to the Director of the Division of Taxation by each
27 person required to collect the tax not later than the 10th day of each
28 month based on the occupancy of rooms in that hotel or transient
29 accommodation during the previous calendar month.

30 b. In carrying out the provisions of subsection a. of this
31 section, the director shall have all of the powers and authority
32 granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be
33 filed and paid in a manner prescribed by the Director of the
34 Division of Taxation. The director shall promulgate such rules and
35 regulations as the director determines are necessary to effectuate the
36 provisions of this section.

37 Each person required to collect the assessment shall be
38 personally liable for the assessment imposed, collected, or required
39 to be paid, collected, or remitted under this section. Any such
40 person shall have the same right in respect to collecting the fee from
41 that person's customer or in respect to non-payment of the fee by
42 the customer as if the fee were a part of the purchase price of the
43 occupancy or rent, as the case may be, and payable at the same
44 time; provided, however, that the director shall be joined as a party
45 in any action or proceeding brought to collect the fee.

46 Notwithstanding any other provision of law or administrative
47 action to the contrary, transient space marketplaces shall be
48 required to collect and pay on behalf of persons engaged in the

1 business of providing transient accommodations **【or hotel rooms】**
2 located in this State the tax for transactions **【solely consummated】**
3 obtained through the transient space marketplace. For not less than
4 four years following the end of the calendar year in which the
5 transaction occurred, the transient space marketplace shall maintain
6 the following data for those transactions consummated through the
7 transient space marketplace:

8 (1) The name of the person who provided the transient
9 accommodation **【or hotel room】**;

10 (2) The name of the customer who procured occupancy of the
11 transient accommodation **【or hotel room】**;

12 (3) The address, including any unit designation, of the transient
13 accommodation **【or hotel room】**;

14 (4) The dates and nightly rates for which the consumer procured
15 occupancy of the transient accommodation **【or hotel room】**;

16 (5) The municipal transient accommodation registration number,
17 if applicable;

18 (6) A statement as to whether such booking services will be
19 provided in connection with (i) short-term rental of the entirety of
20 such unit, (ii) short-term rental of part of such unit, but not the
21 entirety of such unit, and/or (iii) short-term rental of the entirety of
22 such unit, or part thereof, in which a non-short-term occupant will
23 continue to occupy such unit for the duration of such short-term
24 rental;

25 (7) The individualized name or number of each such
26 advertisement or listing connected to such unit and the uniform
27 resource locator (URL) for each such listing or advertisement,
28 where applicable; and

29 (8) Such other information as the Division of Taxation may by
30 rule require.

31 The Division of Taxation may audit transient space marketplaces as
32 necessary to ensure data accuracy and enforce tax compliance.

33 For purposes of this section, "person" includes: an individual,
34 partnership, corporation, or an officer, director, stockholder, or
35 employee of a corporation, or a member or employee of a
36 partnership, who as such officer, director, stockholder, employee, or
37 member is under the duty to perform the act in respect of which the
38 violation occurs.

39 An assessment imposed under this section shall be in addition to
40 any other tax or fee imposed pursuant to statute or local ordinance
41 or resolution by any governmental entity.

42 c. Assessment revenue shall be collected by the Director of the
43 Division of Taxation and shall be deposited by the Director of the
44 Division of Taxation into the intermunicipal account established
45 pursuant to section 53 of P.L.2015, c.19 (C.5:10A-53), and shall be
46 used to pay meadowlands adjustment payments to municipalities in
47 the Meadowlands district pursuant to the provisions of sections 1

1 through 68 of P.L.2015, c.19 (C.5:10A-1 et seq.). If in any year,
2 assessment revenue in the intermunicipal account exceeds the
3 amount necessary to pay meadowlands adjustment payments to
4 municipalities in the Meadowlands district, that remaining
5 assessment revenue may be used for the purposes set forth in
6 subsection e. of this section.

7 d. In the event sufficient assessment revenue is unavailable in
8 any year to pay all of the required meadowlands adjustment
9 payments to municipalities in the Meadowlands district, the State
10 Treasurer shall provide the commission with such funds as may be
11 necessary to make all of the required payments to those
12 municipalities.

13 e. In the event that in any year, after the required meadowlands
14 adjustment payments have been made to municipalities in the
15 Meadowlands district, assessment revenue remains in the
16 intermunicipal account, that remaining assessment revenue may be
17 used in that year for the following purposes:

18 (1) the commission may perform projects in the areas of flood
19 control, traffic, renewable energy, or other infrastructure
20 improvement projects and utilize monies from the project fund for
21 property acquisition, demolition, clearance, removal, relocation,
22 renovation, alteration, construction, reconstruction, installation, or
23 repair of a structure or improvement, and the costs associated
24 therewith including the costs of appraisal, economic and
25 environmental analyses or engineering, planning, design,
26 architectural, surveying, or other professional services;

27 (2) the commission may expend funds towards the promotion of
28 the Meadowlands district as a tourism destination;

29 (3) the commission may fund the acquisition of property for the
30 purpose of open space preservation and the costs associated
31 therewith including the costs of appraisal, economic and
32 environmental analyses or engineering, surveying, or other
33 professional services; or

34 (4) the commission may fund the creation of parks and other
35 recreational facilities and the costs associated therewith, including
36 the costs of appraisal, economic and environmental analyses or
37 engineering planning, design, architectural, surveying, or other
38 professional services.

39 Not later than the first day of the third month next following the
40 enactment of P.L.2015, c.19 (C.5:10A-1 et al.) and pursuant to the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
42 1 et seq.), the commission shall adopt, by resolution, standards for
43 the disbursement in any year of any remaining assessment revenue
44 for projects and uses set forth in subsection e. of this section.

45 f. Terms used in this section shall have the meaning given
46 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).¹
47 (cf: P.L.2018, c.52, s.2)

1 ¹[2.] 3.¹ Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended
2 to read as follows:

3 3. As used in this act:

4 "Authority" means the New Jersey Economic Development
5 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

6 "Developer" means any person or entity, whether public or private,
7 including a State entity, that proposes to undertake a project pursuant
8 to a development agreement.

9 "District" or "sports and entertainment district" means a
10 geographic area which includes a project as set forth in the ordinance
11 pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

12 "Eligible municipality" means a municipality: (1) in which is
13 located part of an urban enterprise zone that has been designated
14 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any supplement
15 thereto; and (2) which has a population greater than 25,000 and less
16 than 29,000 according to the latest federal decennial census in a county
17 of the third class with a population density greater than 295 and less
18 than 304 persons per square mile according to the latest federal
19 decennial census.

20 "Infrastructure improvements" means the construction or
21 rehabilitation of any street, highway, utility, transportation or parking
22 facilities, or other similar improvements; the acquisition of any interest
23 in land as necessary or convenient for the acquisition of any right-of-
24 way or other easement for the purpose of constructing infrastructure
25 improvements; the acquisition, construction or reconstruction of land
26 and site improvements, including demolition, clearance, removal,
27 construction, reconstruction, fill, environmental enhancement or
28 abatement, or other site preparation for development of a sports and
29 entertainment district.

30 ²"Obtained through a transient space marketplace" means that
31 payment for the accommodation is made through a means provided
32 by the marketplace or travel agency, either directly or indirectly,
33 regardless of which person or entity receives the payment, and
34 where the contracting for the accommodation is made through the
35 marketplace or travel agency.²

36 ¹"Professionally managed unit" means a room, group of rooms, or
37 other living or sleeping space for the lodging of occupants in the State,
38 that is offered for rent as a rental unit that does not share any living or
39 sleeping space with any other rental unit, and that is directly or
40 indirectly owned or controlled by a person offering for rent two or
41 more other units during the calendar year.¹

42 "Project" means a sports and entertainment facility and may
43 include infrastructure improvements that are associated with the sports
44 and entertainment facility.

45 "Project cost" means the cost of a project, including the financing,
46 acquisition, development, construction, redevelopment, rehabilitation,
47 reconstruction and improvement costs thereof, financing costs and the

1 administrative costs, including any administrative costs of the
2 authority if bonds are issued pursuant to section 16 of P.L.2007, c.30
3 (C.34:1B-205) and incurred in connection with a sports and
4 entertainment facility which is financed, in whole or in part, by the
5 revenues dedicated by a municipality to a project as authorized
6 pursuant to section 5 of P.L.2007, c.30 (C.34:1B-194).

7 "Residence" means a house, condominium, or other residential
8 dwelling unit in a building or structure or part of a building or
9 structure that is designed, constructed, leased, rented, let or hired out,
10 or otherwise made available for use as a residence.

11 "Sports and entertainment facility" means any privately or publicly
12 owned or operated facility located in a sports and entertainment district
13 that is used primarily for sports contests, entertainment, or both, such
14 as a theater, stadium, museum, arena, automobile racetrack, or other
15 place where performances, concerts, exhibits, games or contests are
16 held.

17 "State Treasurer" or "treasurer" means the treasurer of the State of
18 New Jersey.

19 "Transient accommodation" means a room, group of rooms, or
20 other living or sleeping space for the lodging of occupants, ¹if
21 obtained through a transient space marketplace,¹ including but not
22 limited to residences or buildings used as residences ¹, that is obtained
23 through a transient space marketplace or is a professionally managed
24 unit¹. "Transient accommodation" does not include: a hotel or hotel
25 room; a room, group of rooms, or other living or sleeping space used
26 as a place of assembly; a dormitory or other similar residential facility
27 of an elementary or secondary school or a college or university; a
28 hospital, nursing home, or other similar residential facility of a
29 provider of services for the care, support and treatment of individuals
30 that is licensed by the State; a campsite, cabin, lean-to, or other similar
31 residential facility of a campground or an adult or youth camp; a
32 furnished or unfurnished private residential property, including but not
33 limited to condominiums, bungalows, single-family homes and similar
34 living units, where no maid service, room service, linen changing
35 service or other common hotel services are made available by the
36 lessor and where the keys to the furnished or unfurnished private
37 residential property, whether a physical key, access to a keyless
38 locking mechanism, or other means of physical ingress to the
39 furnished or unfurnished private residential property, are provided to
40 the lessee at the location of an offsite real estate broker licensed by the
41 New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.
42 ²if, and provided that the rental is entirely facilitated by the real estate
43 broker¹²; or leases of real property with a term of at least 90
44 consecutive days.

45 "Transient space marketplace" means **[an online]** a marketplace or
46 travel agency through which a person may offer transient
47 accommodations **[or hotel rooms]** to **[individuals]** customers and

1 through which customers may arrange ²[and pay]² for occupancies of
2 transient accommodations ²[¹; provided that the transient space
3 marketplace collects the payment on behalf of the person offering the
4 transient accommodation¹]². [A "transient space marketplace" allows
5 transient accommodations or hotel rooms to be advertised or listed
6 through an online marketplace in exchange for consideration or
7 provides a means for a customer to arrange for the occupancy of the
8 transient accommodation or hotel room in exchange for consideration.
9 A 'transient space marketplace' shall not include an online marketplace
10 operated by or on behalf of a hotel or hotel corporation that facilitates
11 customer occupancy solely for the hotel or hotel corporation's owned
12 or managed hotels and franchisees, and shall not include a travel
13 agency or an online travel agency.] "Transient space marketplace"
14 does not include a marketplace or travel agency that exclusively offers
15 transient accommodations ¹in the State¹ owned by the owner of the
16 ²[transient space]² marketplace ²or travel agency².
17 (cf: P.L.2018, c.132, s.5)

18

19 ¹4. Section 7 of P.L.2007, c.30 (C.34:1B-196) is amended to
20 read as follows:

21 7. a. A tax imposed pursuant to a municipal ordinance
22 adopted under the provisions of subsection a. of section 5 of
23 P.L.2007, c.30 (C.34:1B-194) shall be collected on behalf of the
24 municipality by the person collecting the receipts, charges or rent
25 from the customer.

26 b. Each person required to collect a tax imposed by the
27 ordinance shall be personally liable for the tax imposed, collected
28 or required to be collected hereunder. Any such person shall have
29 the same right in respect to collecting the tax from a customer as if
30 the tax were a part of the rent and payable at the same time;
31 provided, however, that the chief fiscal officer of the municipality
32 shall be joined as a party in any action or proceeding brought to
33 collect the tax.

34 c. Notwithstanding any other provision of law or
35 administrative action to the contrary, transient space marketplaces
36 shall be required to collect and pay on behalf of persons engaged in
37 the business of providing transient accommodations **[or hotel**
38 **rooms]** located in this State the tax for transactions **[solely**
39 **consummated]** obtained through the transient space marketplace.
40 For not less than four years following the end of the calendar year
41 in which the transaction occurred, the transient space marketplace
42 shall maintain the following data for those transactions
43 consummated through the transient space marketplace:

44 (1) The name of the person who provided the transient
45 accommodation **[or hotel room]**;

46 (2) The name of the customer who procured occupancy of the
47 transient accommodation **[or hotel room]**;

- 1 (3) The address, including any unit designation, of the transient
2 accommodation **【or hotel room】**;
- 3 (4) The dates and nightly rates for which the consumer procured
4 occupancy of the transient accommodation **【or hotel room】**;
- 5 (5) The municipal transient accommodation registration number,
6 if applicable;
- 7 (6) A statement as to whether such booking services will be
8 provided in connection with (i) short-term rental of the entirety of
9 such unit, (ii) short-term rental of part of such unit, but not the
10 entirety of such unit, and/or (iii) short-term rental of the entirety of
11 such unit, or part thereof, in which a non-short-term occupant will
12 continue to occupy such unit for the duration of such short-term
13 rental;
- 14 (7) The individualized name or number of each such
15 advertisement or listing connected to such unit and the uniform
16 resource locator (URL) for each such listing or advertisement,
17 where applicable; and
- 18 (8) Such other information as the Division of Taxation may by
19 rule require.

20 The Division of Taxation may audit transient space marketplaces as
21 necessary to ensure data accuracy and enforce tax compliance.¹

22 (cf: P.L.2018, c.49, s.5)

23
24 ¹**【3.】 5.**¹ Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended
25 to read as follows:

26 2. As used in this act:

27 "Retail sale" or "sale at retail" means and includes:

28 (1) Any sale in the ordinary course of business for consumption of
29 whiskey, beer or other alcoholic beverages by the drink in restaurants,
30 cafes, bars, hotels and other similar establishments;

31 (2) Any cover charge, minimum charge, entertainment, or other
32 similar charge made to any patron of any restaurant, cafe, bar, hotel or
33 other similar establishment;

34 (3) The hiring, with or without service, of any room in any hotel,
35 transient accommodation, inn, rooming or boarding house;

36 (4) The hiring of any rolling chair, beach chair or cabana; and

37 (5) The granting or sale of any ticket, license or permit for
38 admission to any theatre, moving picture exhibition or show, pier,
39 exhibition, or place of amusement, except charges for admission to
40 boxing, wrestling, kick boxing or combative sports events, matches, or
41 exhibitions, which charges are taxed pursuant to section 20 of
42 P.L.1985, c.83 (C.5:2A-20).

43 "Vendor" means any person selling or hiring property or services
44 to another person upon the receipts from which a tax is imposed.

45 ²"Obtained through a transient space marketplace" means that
46 payment for the accommodation is made through a means provided
47 by the marketplace or travel agency, either directly or indirectly.

1 regardless of which person or entity receives the payment, and
2 where the contracting for the accommodation is made through the
3 marketplace or travel agency.²

4 ¹“Professionally managed unit” means a room, group of rooms, or
5 other living or sleeping space for the lodging of occupants in the State,
6 that is offered for rent as a rental unit that does not share any living or
7 sleeping space with any other rental unit, and that is directly or
8 indirectly owned or controlled by a person offering for rent two or
9 more other units during the calendar year.¹

10 "Purchaser" means any person purchasing or hiring property or
11 services from another person, the receipts from which are taxable.

12 "Residence" means a house, condominium, or other residential
13 dwelling unit in a building or structure or part of a building or
14 structure that is designed, constructed, leased, rented, let or hired out,
15 or otherwise made available for use as a residence.

16 "Transient accommodation" means a room, group of rooms, or
17 other living or sleeping space for the lodging of occupants, ¹if
18 obtained through a transient space marketplace,¹ including but not
19 limited to residences or buildings used as residences ¹, that is obtained
20 through a transient space marketplace or is a professionally managed
21 unit¹. "Transient accommodation" does not include: a hotel or hotel
22 room; a room, group of rooms, or other living or sleeping space used
23 as a place of assembly; a dormitory or other similar residential facility
24 of an elementary or secondary school or a college or university; a
25 hospital, nursing home, or other similar residential facility of a
26 provider of services for the care, support and treatment of individuals
27 that is licensed by the State; a campsite, cabin, lean-to, or other similar
28 residential facility of a campground or an adult or youth camp; a
29 furnished or unfurnished private residential property, including but not
30 limited to condominiums, bungalows, single-family homes and similar
31 living units, where no maid service, room service, linen changing
32 service or other common hotel services are made available by the
33 lessor and where the keys to the furnished or unfurnished private
34 residential property, whether a physical key, access to a keyless
35 locking mechanism, or other means of physical ingress to the
36 furnished or unfurnished private residential property, are provided to
37 the lessee at the location of an offsite real estate broker licensed by the
38 New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.
39 ²1, and provided that the rental is entirely facilitated by the real estate
40 broker¹²; or leases of real property with a term of at least 90
41 consecutive days.

42 "Transient space marketplace" means **[an online]** a marketplace or
43 travel agency through which a person may offer transient
44 accommodations **[or hotel rooms]** to **[individuals]** customers and
45 through which customers may arrange ²**[and pay]**² for occupancies of
46 transient accommodations ²**[1; provided that the transient space**
47 marketplace collects the payment on behalf of the person offering the

1 transient accommodation¹]². [A "transient space marketplace" allows
2 transient accommodations or hotel rooms to be advertised or listed
3 through an online marketplace in exchange for consideration or
4 provides a means for a customer to arrange for the occupancy of the
5 transient accommodation or hotel room in exchange for consideration.
6 A 'transient space marketplace' shall not include an online marketplace
7 operated by or on behalf of a hotel or hotel corporation that facilitates
8 customer occupancy solely for the hotel or hotel corporation's owned
9 or managed hotels and franchisees, and shall not include a travel
10 agency or an online travel agency.] "Transient space marketplace"
11 does not include a marketplace or travel agency that exclusively offers
12 transient accommodations ¹in the State¹ owned by the owner of the
13 ²[transient space]² marketplace ²or travel agency².
14 (cf: P.L.2018, c.132, s.6)

15
16 ¹[4.] 6.¹ Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended
17 to read as follows:

18 1. As used in this act:

19 a. "Convention center operating authority" means, in the case of
20 any eligible municipality, the public authority or other governmental
21 entity empowered to operate convention hall and the convention center
22 facilities in the eligible municipality.

23 b. "Director" means the Director of the Division of Taxation in
24 the Department of the Treasury.

25 c. "Eligible municipality" means any municipality in which any
26 portion of the proceeds of a retail sales tax levied by ordinance
27 adopted by the municipality pursuant to section 1 of P.L.1947,
28 c.71 (C.40:48-8.15) is applied as authorized by law to the payment of
29 costs of convention center facilities located in the municipality.

30 d. "Hotel" means a building or a portion of a building which is
31 regularly used and kept open as such for the lodging of guests. "Hotel"
32 includes an apartment hotel, a motel, inn, and rooming or boarding
33 house or club, whether or not meals are served, but does not include a
34 transient accommodation.

35 e. ²"Obtained through a transient space marketplace" means that
36 payment for the accommodation is made through a means provided
37 by the marketplace or travel agency, either directly or indirectly,
38 regardless of which person or entity receives the payment, and
39 where the contracting for the accommodation is made through the
40 marketplace or travel agency.

41 f.² "Occupied room" means a room or rooms of any kind in any
42 part of a hotel or transient accommodation, other than a place of
43 assembly, which is used or possessed by a guest or guests, whether or
44 not for consideration.

45 ²[¹f.] g.² "Professionally managed unit" means a room, group of
46 rooms, or other living or sleeping space for the lodging of occupants in
47 the State, that is offered for rent as a rental unit that does not share any

1 living or sleeping space with any other rental unit, and that is directly
 2 or indirectly owned or controlled by a person offering for rent two or
 3 more other units during the calendar year.¹

4 ²**[¹[f.] g.¹] h.²** "Residence" means a house, condominium, or
 5 other residential dwelling unit in a building or structure or part of a
 6 building or structure that is designed, constructed, leased, rented, let or
 7 hired out, or otherwise made available for use as a residence.

8 ²**[¹[g.] h.¹] i.²** "Transient accommodation" means a room,
 9 group of rooms, or other living or sleeping space for the lodging of
 10 occupants, ¹**[if obtained through a transient space marketplace,]¹**
 11 including but not limited to residences or buildings used as residences
 12 ¹, that is obtained through a transient space marketplace or is a
 13 professionally managed unit¹. "Transient accommodation" does not
 14 include: a hotel or hotel room; a room, group of rooms, or other living
 15 or sleeping space used as a place of assembly; a dormitory or other
 16 similar residential facility of an elementary or secondary school or a
 17 college or university; a hospital, nursing home, or other similar
 18 residential facility of a provider of services for the care, support and
 19 treatment of individuals that is licensed by the State; a campsite, cabin,
 20 lean-to, or other similar residential facility of a campground or an adult
 21 or youth camp; a furnished or unfurnished private residential property,
 22 including but not limited to condominiums, bungalows, single-family
 23 homes and similar living units, where no maid service, room service,
 24 linen changing service or other common hotel services are made
 25 available by the lessor and where the keys to the furnished or
 26 unfurnished private residential property, whether a physical key,
 27 access to a keyless locking mechanism, or other means of physical
 28 ingress to the furnished or unfurnished private residential property, are
 29 provided to the lessee at the location of an offsite real estate broker
 30 licensed by the New Jersey Real Estate Commission pursuant to
 31 R.S.45:15-1 et seq. ²**[¹, and provided that the rental is entirely**
 32 **facilitated by the real estate broker**¹]²; or leases of real property with a
 33 term of at least 90 consecutive days.

34 ²**[¹[h.] i.¹] j.²** "Transient space marketplace" means **[an online]**
 35 **a marketplace or travel agency** through which a person may offer
 36 transient accommodations **[or hotel rooms]** to **[individuals]**
 37 customers and through which customers may arrange ²**[and pay]**² for
 38 occupancies of transient accommodations ²**[¹; provided that the**
 39 **transient space marketplace collects the payment on behalf of the**
 40 **person offering the transient accommodation**¹]². **[A "transient space**
 41 **marketplace"** allows transient accommodations or hotel rooms to be
 42 advertised or listed through an online marketplace in exchange for
 43 consideration or provides a means for a customer to arrange for the
 44 occupancy of the transient accommodation or hotel room in exchange
 45 for consideration. A 'transient space marketplace' shall not include an
 46 online marketplace operated by or on behalf of a hotel or hotel
 47 corporation that facilitates customer occupancy solely for the hotel or

1 hotel corporation's owned or managed hotels and franchisees, and shall
2 not include a travel agency or an online travel agency.】 “Transient
3 space marketplace” does not include a marketplace or travel agency
4 that exclusively offers transient accommodations ¹in the State ¹ owned
5 by the owner of the ²【transient space】 ² marketplace ² or travel
6 agency².

7 (cf: P.L.2018, c.132, s.7)

8

9 ¹⁷. Section 5 of P.L.1991, c.376 (C.40:48-8.49) is amended to
10 read as follows:

11 5. The fees under this act shall be collected and administered
12 by the director, notwithstanding the provisions of any other law to
13 the contrary. In carrying out the provisions of this section, the
14 director shall have all the powers granted in P.L.1966, c.30
15 (C.54:32B-1 et seq.). The director shall determine and certify to the
16 State Treasurer on a monthly basis the amount of revenues collected
17 by the director pursuant to this section on account of the fees
18 imposed pursuant to this act in an eligible municipality which are
19 payable to the convention center operating authority operating
20 convention center facilities in such eligible municipality. The State
21 Treasurer upon the certification of the director and upon the warrant
22 of the State Comptroller, shall pay and distribute on a monthly basis
23 to the convention center operating authority the amount so
24 determined and certified.

25 Notwithstanding any other provision of law or administrative
26 action to the contrary, transient space marketplaces shall be
27 required to collect and pay on behalf of persons engaged in the
28 business of providing transient accommodations **【or hotel rooms】**
29 located in this State the tax for transactions **【solely consummated】**
30 obtained through the transient space marketplace. For not less than
31 four years following the end of the calendar year in which the
32 transaction occurred, the transient space marketplace shall maintain
33 the following data for those transactions consummated through the
34 transient space marketplace:

35 (1) The name of the person who provided the transient
36 accommodation **【or hotel room】**;

37 (2) The name of the customer who procured occupancy of the
38 transient accommodation **【or hotel room】**;

39 (3) The address, including any unit designation, of the transient
40 accommodation **【or hotel room】**;

41 (4) The dates and nightly rates for which the consumer procured
42 occupancy of the transient accommodation **【or hotel room】**;

43 (5) The municipal transient accommodation registration number,
44 if applicable;

45 (6) A statement as to whether such booking services will be
46 provided in connection with (i) short-term rental of the entirety of
47 such unit, (ii) short-term rental of part of such unit, but not the

1 entirety of such unit, and/or (iii) short-term rental of the entirety of
2 such unit, or part thereof, in which a non-short-term occupant will
3 continue to occupy such unit for the duration of such short-term
4 rental;

5 (7) The individualized name or number of each such
6 advertisement or listing connected to such unit and the uniform
7 resource locator (URL) for each such listing or advertisement,
8 where applicable; and

9 (8) Such other information as the Division of Taxation may by
10 rule require.

11 The Division of Taxation may audit transient space marketplaces as
12 necessary to ensure data accuracy and enforce tax compliance.¹

13 (cf: P.L.2018, c.49, s.11)

14

15 ¹**[5.]** §.¹ Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to
16 read as follows:

17 2. As used in this act "hotel" means a building or portion of a
18 building which is regularly used and kept open as such for the lodging
19 of guests. "Hotel" includes an apartment hotel, a motel, inn, and
20 rooming or boarding house or club, whether or not meals are served,
21 but does not include a transient accommodation.

22 ²"Obtained through a transient space marketplace" means that
23 payment for the accommodation is made through a means provided
24 by the marketplace or travel agency, either directly or indirectly,
25 regardless of which person or entity receives the payment, and
26 where the contracting for the accommodation is made through the
27 marketplace or travel agency.²

28 ¹"Professionally managed unit" means a room, group of rooms, or
29 other living or sleeping space for the lodging of occupants in the State,
30 that is offered for rent as a rental unit that does not share any living or
31 sleeping space with any other rental unit, and that is directly or
32 indirectly owned or controlled by a person offering for rent two or
33 more other units during the calendar year.¹

34 "Residence" means a house, condominium, or other residential
35 dwelling unit in a building or structure or part of a building or
36 structure that is designed, constructed, leased, rented, let or hired out,
37 or otherwise made available for use as a residence.

38 "Transient accommodation" means a room, group of rooms, or
39 other living or sleeping space for the lodging of occupants, ¹**[if**
40 **obtained through a transient space marketplace,]**¹ including but not
41 limited to residences or buildings used as residences ¹, that is obtained
42 through a transient space marketplace or is a professionally managed
43 unit¹. "Transient accommodation" does not include: a hotel or hotel
44 room; a room, group of rooms, or other living or sleeping space used
45 as a place of assembly; a dormitory or other similar residential facility
46 of an elementary or secondary school or a college or university; a
47 hospital, nursing home, or other similar residential facility of a

1 provider of services for the care, support and treatment of individuals
 2 that is licensed by the State; a campsite, cabin, lean-to, or other similar
 3 residential facility of a campground or an adult or youth camp; a
 4 furnished or unfurnished private residential property, including but not
 5 limited to condominiums, bungalows, single-family homes and similar
 6 living units, where no maid service, room service, linen changing
 7 service or other common hotel services are made available by the
 8 lessor and where the keys to the furnished or unfurnished private
 9 residential property, whether a physical key, access to a keyless
 10 locking mechanism, or other means of physical ingress to the
 11 furnished or unfurnished private residential property, are provided to
 12 the lessee at the location of an offsite real estate broker licensed by the
 13 New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.
 14 ²["¹, and provided that the rental is entirely facilitated by the real estate
 15 broker¹"]²; or leases of real property with a term of at least 90
 16 consecutive days.

17 "Transient space marketplace" means **[an online]** a marketplace or
 18 travel agency through which a person may offer transient
 19 accommodations **[or hotel rooms]** to **[individuals]** customers and
 20 through which customers may arrange ²**[and pay]**² for occupancies of
 21 transient accommodations ²**[¹; provided that the transient space**
 22 **marketplace collects the payment on behalf of the person offering the**
 23 **transient accommodation¹"]²**. **[A "transient space marketplace" allows**
 24 **transient accommodations or hotel rooms to be advertised or listed**
 25 **through an online marketplace in exchange for consideration or**
 26 **provides a means for a customer to arrange for the occupancy of the**
 27 **transient accommodation or hotel room in exchange for consideration.**
 28 **A 'transient space marketplace' shall not include an online marketplace**
 29 **operated by or on behalf of a hotel or hotel corporation that facilitates**
 30 **customer occupancy solely for the hotel or hotel corporation's owned**
 31 **or managed hotels and franchisees, and shall not include a travel**
 32 **agency or an online travel agency.]** "Transient space marketplace"
 33 does not include a marketplace or travel agency that exclusively offers
 34 transient accommodations ¹in the State¹ owned by the owner of the
 35 ²**[transient space]**² marketplace ²or travel agency².

36 (cf: P.L.2018, c.132, s.8)

37

38 ¹9. Section 4 of P.L.1981, c.77 (C.40:48E-4) is amended to read
 39 as follows:

40 4. a. The tax shall be collected on behalf of the city by the
 41 person collecting the use or occupancy charge from the hotel or
 42 transient accommodation customer.

43 b. Every person required to collect any tax imposed by the
 44 ordinance shall be personally liable for the tax imposed, collected
 45 or required to be collected hereunder. Any such person shall have
 46 the same right in respect to collecting the tax from his customer as
 47 if the tax were a part of the use or occupancy charge and payable at

1 the same time; provided, however, that the chief fiscal officer of the
2 city shall be joined as a party in any action or proceeding brought to
3 collect the tax.

4 c. Notwithstanding any other provision of law or
5 administrative action to the contrary, transient space marketplaces
6 shall be required to collect and pay on behalf of persons engaged in
7 the business of providing transient accommodations **【or hotel**
8 **rooms】** located in this State the tax for transactions **【solely**
9 **consummated】** obtained through the transient space marketplace.
10 For not less than four years following the end of the calendar year
11 in which the transaction occurred, the transient space marketplace
12 shall maintain the following data for those transactions
13 consummated through the transient space marketplace:

14 (1) The name of the person who provided the transient
15 accommodation **【or hotel room】**;

16 (2) The name of the customer who procured occupancy of the
17 transient accommodation **【or hotel room】**;

18 (3) The address, including any unit designation, of the transient
19 accommodation **【or hotel room】**;

20 (4) The dates and nightly rates for which the consumer procured
21 occupancy of the transient accommodation **【or hotel room】**;

22 (5) The municipal transient accommodation registration number,
23 if applicable;

24 (6) A statement as to whether such booking services will be
25 provided in connection with (i) short-term rental of the entirety of
26 such unit, (ii) short-term rental of part of such unit, but not the
27 entirety of such unit, and/or (iii) short-term rental of the entirety of
28 such unit, or part thereof, in which a non-short-term occupant will
29 continue to occupy such unit for the duration of such short-term
30 rental;

31 (7) The individualized name or number of each such
32 advertisement or listing connected to such unit and the uniform
33 resource locator (URL) for each such listing or advertisement,
34 where applicable; and

35 (8) Such other information as the Division of Taxation may by
36 rule require.

37 The Division of Taxation may audit transient space marketplaces as
38 necessary to ensure data accuracy and enforce tax compliance.

39 d. No person required to collect any tax hereunder shall
40 advertise or hold out to any person or to the public in general, in
41 any manner, directly or indirectly, that the tax will not be separately
42 charged and stated to the customer or that the tax will be refunded
43 to the customer.

44 e. All revenues collected from the tax shall be remitted to the
45 chief fiscal officer of the city on or before the dates on which
46 municipal real property taxes are due.

1 f. The city shall enforce the payment of delinquent hotel
2 occupancy taxes in the same manner as provided for municipal real
3 property taxes.¹

4 (cf: P.L.2018, c.49, s.14)

5
6 ¹10. Section 5 of P.L.2003, c.114 (C.40:48F-3) is amended to
7 read as follows:

8 5. a. A tax imposed pursuant to a municipal ordinance
9 adopted under the provisions of section 3 of P.L.2003, c.114
10 (C.40:48F-1) shall be collected on behalf of the municipality by the
11 person collecting the rent from the hotel or transient
12 accommodation customer.

13 b. Each person required to collect a tax imposed by the
14 ordinance shall be personally liable for the tax imposed, collected
15 or required to be collected hereunder. Any such person shall have
16 the same right in respect to collecting the tax from a customer as if
17 the tax were a part of the rent and payable at the same time;
18 provided, however, that the chief fiscal officer of the municipality
19 shall be joined as a party in any action or proceeding brought to
20 collect the tax.

21 c. Notwithstanding any other provision of law or
22 administrative action to the contrary, transient space marketplaces
23 shall be required to collect and pay on behalf of persons engaged in
24 the business of providing transient accommodations **【or hotel**
25 **rooms】** located in this State the tax for transactions **【solely**
26 **consummated】** obtained through the transient space marketplace.
27 For not less than four years following the end of the calendar year
28 in which the transaction occurred, the transient space marketplace
29 shall maintain the following data for those transactions
30 consummated through the transient space marketplace:

31 (1) The name of the person who provided the transient
32 accommodation **【or hotel room】**;

33 (2) The name of the customer who procured occupancy of the
34 transient accommodation **【or hotel room】**;

35 (3) The address, including any unit designation, of the transient
36 accommodation **【or hotel room】**;

37 (4) The dates and nightly rates for which the consumer procured
38 occupancy of the transient accommodation **【or hotel room】**;

39 (5) The municipal transient accommodation registration number,
40 if applicable;

41 (6) A statement as to whether such booking services will be
42 provided in connection with (i) short-term rental of the entirety of
43 such unit, (ii) short-term rental of part of such unit, but not the
44 entirety of such unit, and/or (iii) short-term rental of the entirety of
45 such unit, or part thereof, in which a non-short-term occupant will
46 continue to occupy such unit for the duration of such short-term
47 rental;

1 (7) The individualized name or number of each such
2 advertisement or listing connected to such unit and the uniform
3 resource locator (URL) for each such listing or advertisement,
4 where applicable; and

5 (8) Such other information as the Division of Taxation may by
6 rule require.

7 The Division of Taxation may audit transient space marketplaces as
8 necessary to ensure data accuracy and enforce tax compliance.¹

9 (cf: P.L.2018, c.49, s.16)

10

11 ¹~~6.~~ 11.¹ Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended
12 to read as follows:

13 3. As used in this act:

14 "Authority" means a tourism improvement and development
15 authority created pursuant to section 18 of this act, P.L.1992,
16 c.165 (C.40:54D-18).

17 "Beach operation offset payment " means a payment made by an
18 authority to municipalities in its district for tourism development
19 activities related to operating and maintaining public beaches within a
20 zone to seaward of a line of demarcation located not more than 1,000
21 feet from the mean high water line.

22 "Bond" means any bond or note issued by an authority pursuant to
23 the provisions of this act.

24 "Commissioner" means the Commissioner of the Department of
25 Commerce and Economic Development.

26 "Construction" means the planning, designing, construction,
27 reconstruction, rehabilitation, replacement, repair, extension,
28 enlargement, improvement and betterment of a project, and includes
29 the demolition, clearance and removal of buildings or structures on
30 land acquired, held, leased or used for a project.

31 "Convention center facility" means any convention hall or center
32 or like structure or building, and shall include all facilities, including
33 commercial, office, community service, parking facilities and all
34 property rights, easements and interests, and other facilities
35 constructed for the accommodation and entertainment of tourists and
36 visitors, constructed in conjunction with a convention center facility
37 and forming reasonable appurtenances thereto but does not mean the
38 Wildwood convention center facility as defined in this section.

39 "Tourism project" means the convention center facility or outdoor
40 special events arena, or both, located in the territorial limits of the
41 district, and any costs associated therewith but does not mean the
42 Wildwood convention center facility as defined in this section.

43 "Cost" means all or any part of the expenses incurred in connection
44 with the acquisition, construction and maintenance of any real
45 property, lands, structures, real or personal property rights, rights-of-
46 way, franchises, easements, and interests acquired or used for a
47 project; any financing charges and reserves for the payment of
48 principal and interest on bonds or notes; the expenses of engineering,

1 appraisal, architectural, accounting, financial and legal services; and
2 other expenses as may be necessary or incident to the acquisition,
3 construction and maintenance of a project, the financing thereof and
4 the placing of the project into operation.

5 "County" means a county of the sixth class.

6 "Director" means the Director of the Division of Taxation in the
7 Department of the Treasury.

8 "Fund" means a Reserve Fund created pursuant to section 13 of
9 P.L.1992, c.165 (C.40:54D-13).

10 "Outdoor special events arena" means a facility or structure for the
11 holding outdoors of public events, entertainments, sporting events,
12 concerts or similar activities, and shall include all facilities, property
13 rights and interests, and all appurtenances reasonably related thereto,
14 constructed for the accommodation and entertainment of tourists and
15 visitors.

16 "Participant amusement" means a sporting activity or amusement
17 the charge for which is exempt from taxation under the "Sales and Use
18 Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the
19 participation of the patron in the activity or amusement, such as
20 bowling alleys, swimming pools, water slides, miniature golf,
21 boardwalk or carnival games and amusements, baseball batting cages,
22 tennis courts, and fishing and sightseeing boats.

23 "Predominantly tourism related retail receipts" means:

24 a. The rent for every occupancy of a room or rooms in a hotel or
25 transient accommodation subject to taxation pursuant to subsection (d)
26 of section 3 of the "Sales and Use Tax Act," P.L.1966, c.30
27 (C.54:32B-3);

28 b. Receipts from the sale of food and drink in or by restaurants,
29 taverns, or other establishments in the district, or by caterers, including
30 in the amount of such receipt any cover, minimum, entertainment or
31 other charge made to patrons or customers, subject to taxation
32 pursuant to subsection (c) of section 3 of the "Sales and Use Tax Act,"
33 P.L.1966, c.30 (C.54:32B-3) but excluding receipts from sales of food
34 and beverages sold through coin operated vending machines; and

35 c. Admissions charges to or the use of any place of amusement or
36 of any roof garden, cabaret or similar place, subject to taxation
37 pursuant to subsection (e) of section 3 of the "Sales and Use Tax Act,"
38 P.L.1966, c.30 (C.54:32B-3).

39 ²"Obtained through a transient space marketplace" means that
40 payment for the accommodation is made through a means provided
41 by the marketplace or travel agency, either directly or indirectly,
42 regardless of which person or entity receives the payment, and
43 where the contracting for the accommodation is made through the
44 marketplace or travel agency.²

45 ¹"Professionally managed unit" means a room, group of rooms, or
46 other living or sleeping space for the lodging of occupants in the State,
47 that is offered for rent as a rental unit that does not share any living or
48 sleeping space with any other rental unit, and that is directly or

1 indirectly owned or controlled by a person offering for rent two or
2 more other units during the calendar year.¹

3 "Purchaser" means any person purchasing or hiring property or
4 services from another person, the receipts or charges from which are
5 taxable by an ordinance authorized under P.L.1992, c.165 (C.40:54D-1
6 et seq.).

7 "Residence" means a house, condominium, or other residential
8 dwelling unit in a building or structure or part of a building or
9 structure that is designed, constructed, leased, rented, let or hired out,
10 or otherwise made available for use as a residence.

11 "Sports authority" means the New Jersey Sports and Exposition
12 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.).

13 "Tourism" means activities involved in providing and marketing
14 services and products, including accommodations, for nonresidents
15 and residents who travel to and in New Jersey for recreation and
16 pleasure.

17 "Tourism assessment" means an assessment on the rent for every
18 occupancy of a room or rooms in a hotel or transient accommodation
19 subject to taxation pursuant to subsection (d) of section 3 of the "Sales
20 and Use Tax Act," P.L.1966, c.30 (C.54:32B-3).

21 "Tourism development activities" include operations of the
22 authority to carry out its statutory duty to promote, advertise and
23 market the district, including making beach operation offset payments.

24 "Tourism development fee" means a fee imposed by ordinance
25 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

26 "Tourism improvement and development district" or "district"
27 means an area within two or more contiguous municipalities within a
28 county of the sixth class established pursuant to ordinance enacted by
29 those municipalities, for the purposes of promoting the acquisition,
30 construction, maintenance, operation and support of a tourism project,
31 and to devote the revenue and the proceeds from taxes upon
32 predominantly tourism related retail receipts and from tourism
33 development fees to the purposes as herein defined.

34 "Tourist industry" means the industry consisting of private and
35 public organizations which directly or indirectly provide services and
36 products to nonresidents and residents who travel to and in New Jersey
37 for recreation and pleasure.

38 "Tourism lodging" means any dwelling unit, other than a dwelling
39 unit in a hotel the rent for which is subject to taxation under the "Sales
40 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), regardless of
41 the form of ownership of the unit, rented with or without a lease,
42 whether rented by the owner or by an agent for the owner.

43 "Transient accommodation" means a room, group of rooms, or
44 other living or sleeping space for the lodging of occupants, ¹if
45 obtained through a transient space marketplace,¹ including but not
46 limited to residences or buildings used as residences ¹, that is obtained
47 through a transient space marketplace or is a professionally managed

1 unit¹. "Transient accommodation" does not include: a hotel or hotel
2 room; a room, group of rooms, or other living or sleeping space used
3 as a place of assembly; a dormitory or other similar residential facility
4 of an elementary or secondary school or a college or university; a
5 hospital, nursing home, or other similar residential facility of a
6 provider of services for the care, support and treatment of individuals
7 that is licensed by the State; a campsite, cabin, lean-to, or other similar
8 residential facility of a campground or an adult or youth camp; a
9 furnished or unfurnished private residential property, including but not
10 limited to condominiums, bungalows, single-family homes and similar
11 living units, where no maid service, room service, linen changing
12 service or other common hotel services are made available by the
13 lessor and where the keys to the furnished or unfurnished private
14 residential property, whether a physical key, access to a keyless
15 locking mechanism, or other means of physical ingress to the
16 furnished or unfurnished private residential property, are provided to
17 the lessee at the location of an offsite real estate broker licensed by the
18 New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.
19 ²["¹, and provided that the rental is entirely facilitated by the real estate
20 broker¹"]²; or leases of real property with a term of at least 90
21 consecutive days.

22 "Transient space marketplace" means **[an online]** a marketplace or
23 travel agency through which a person may offer transient
24 accommodations **[or hotel rooms]** to **[individuals]** customers and
25 through which customers may arrange ²**[and pay]**² for occupancies of
26 transient accommodations ²**[¹; provided that the transient space**
27 marketplace collects the payment on behalf of the person offering the
28 transient accommodation¹"]². **[A "transient space marketplace" allows**
29 transient accommodations or hotel rooms to be advertised or listed
30 through an online marketplace in exchange for consideration or
31 provides a means for a customer to arrange for the occupancy of the
32 transient accommodation or hotel room in exchange for consideration.
33 A 'transient space marketplace' shall not include an online marketplace
34 operated by or on behalf of a hotel or hotel corporation that facilitates
35 customer occupancy solely for the hotel or hotel corporation's owned
36 or managed hotels and franchisees, and shall not include a travel
37 agency or an online travel agency. **]** "Transient space marketplace"
38 does not include a marketplace or travel agency that exclusively offers
39 transient accommodations ¹in the State¹ owned by the owner of the
40 ²**[transient space]**² marketplace ²or travel agency².

41 "Vendor" means a person selling or hiring property or services to
42 another person, the receipts or charges from which are taxable by an
43 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

44 "Wildwood convention center facility" means the project
45 authorized by paragraph (12) of subsection a. of section 6 of P.L.1971,
46 c.137 (C.5:10-6).

47 (cf: P.L.2018, c.132, s.9)

1 ¹12. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to
2 read as follows:

3 9. a. (1) A vendor required to collect the tax upon
4 predominantly tourism related retail receipts or tourism assessment
5 imposed pursuant to this act shall on or before the dates required
6 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to
7 the director the tax and assessments collected in the preceding
8 month and make and file a return for the preceding month with the
9 director on any form and containing any information as the Director
10 of the Division of Taxation in the Department of the Treasury shall
11 prescribe by rule or regulation as necessary to determine liability
12 for the tax and assessment in the preceding month during which the
13 person was required to collect the tax.

14 (2) A vendor required to collect the tax upon predominantly
15 tourism related retail receipts and the tourism assessment shall be
16 personally liable for the tax or assessment imposed, collected, or
17 required to be paid, collected, or remitted under section 4 of
18 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the
19 same right in respect to collecting the tax or assessment from that
20 vendor's customer or in respect to non-payment of the tax or
21 assessment by the customer as if the tax or assessment were a part
22 of the purchase price of the property or service, amusement charge
23 or rent, as the case may be, and payable at the same time; provided
24 however, that the director shall be joined as a party in any action or
25 proceeding brought to collect the tax or assessment.

26 For purposes of this paragraph, "vendor" includes: an individual,
27 partnership, corporation, or an officer, director, stockholder, or
28 employee of a corporation, or a member or employee of a
29 partnership, who as such officer, director, stockholder, employee, or
30 member is under the duty to perform the act in respect of which the
31 violation occurs.

32 (3) Notwithstanding any other provision of law or
33 administrative action to the contrary, transient space marketplaces
34 shall be required to collect and pay on behalf of persons engaged in
35 the business of providing transient accommodations **【or hotel**
36 **rooms】** located in this State the tax for transactions **【solely**
37 **consummated】** obtained through the transient space marketplace.
38 For not less than four years following the end of the calendar year
39 in which the transaction occurred, the transient space marketplace
40 shall maintain the following data for those transactions
41 consummated through the transient space marketplace:

42 (1) The name of the person who provided the transient
43 accommodation **【or hotel room】**;

44 (2) The name of the customer who procured occupancy of the
45 transient accommodation **【or hotel room】**;

46 (3) The address, including any unit designation, of the transient
47 accommodation **【or hotel room】**;

- 1 (4) The dates and nightly rates for which the consumer procured
2 occupancy of the transient accommodation **[or hotel room]**;
- 3 (5) The municipal transient accommodation registration number,
4 if applicable;
- 5 (6) A statement as to whether such booking services will be
6 provided in connection with (i) short-term rental of the entirety of
7 such unit, (ii) short-term rental of part of such unit, but not the
8 entirety of such unit, and/or (iii) short-term rental of the entirety of
9 such unit, or part thereof, in which a non-short-term occupant will
10 continue to occupy such unit for the duration of such short-term
11 rental;
- 12 (7) The individualized name or number of each such
13 advertisement or listing connected to such unit and the uniform
14 resource locator (URL) for each such listing or advertisement,
15 where applicable; and
- 16 (8) Such other information as the Division of Taxation may by
17 rule require.

18 The Division of Taxation may audit transient space marketplaces as
19 necessary to ensure data accuracy and enforce tax compliance.

20 b. The director may permit or require returns to be made
21 covering other periods and upon any dates as the director may
22 specify. In addition, the director may require payments of tax and
23 assessment liability at any intervals and based upon any
24 classifications as the director may designate. In prescribing any
25 other periods to be covered by the return or intervals or
26 classifications for payment of tax and assessment liability, the
27 director may take into account the dollar volume of tax and
28 assessment involved as well as the need for ensuring the prompt and
29 orderly collection of the tax imposed.

30 c. The director may require amended returns to be filed within
31 20 days after notice and to contain the information specified in the
32 notice.

33 d. The director shall inform the authority for each month in
34 which this tax and assessment is collected and returns made of the
35 amount so collected in each month.¹

36 (cf: P.L.2018, c.49, s.18)

37

38 ¹**[7.] 13.**¹ Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to
39 read as follows:

40 2. Unless the context in which they occur requires otherwise, the
41 following terms when used in this act shall mean:

42 (a) "Person" includes an individual, trust, partnership, limited
43 partnership, limited liability company, society, association, joint stock
44 company, corporation, public corporation or public authority, estate,
45 receiver, trustee, assignee, referee, fiduciary and any other legal entity.

46 (b) "Purchase at retail" means a purchase by any person at a retail
47 sale.

1 (c) "Purchaser" means a person to whom a sale of personal
2 property is made or to whom a service is furnished.

3 (d) "Receipt" means the amount of the sales price of any tangible
4 personal property, specified digital product or service taxable under
5 this act.

6 (e) "Retail sale" means any sale, lease, or rental for any purpose,
7 other than for resale, sublease, or subrent.

8 (1) For the purposes of this act a sale is for "resale, sublease, or
9 subrent" if it is a sale (A) for resale either as such or as converted into
10 or as a component part of a product produced for sale by the purchaser,
11 including the conversion of natural gas into another intermediate or
12 end product, other than electricity or thermal energy, produced for sale
13 by the purchaser, (B) for use by that person in performing the services
14 subject to tax under subsection (b) of section 3 where the property so
15 sold becomes a physical component part of the property upon which
16 the services are performed or where the property so sold is later
17 actually transferred to the purchaser of the service in conjunction with
18 the performance of the service subject to tax, (C) of
19 telecommunications service to a telecommunications service provider
20 for use as a component part of telecommunications service provided to
21 an ultimate customer, or (D) to a person who receives by contract a
22 product transferred electronically for further commercial broadcast,
23 rebroadcast, transmission, retransmission, licensing, relicensing,
24 distribution, redistribution or exhibition of the product, in whole or in
25 part, to another person, other than rights to redistribute based on
26 statutory or common law doctrine such as fair use.

27 (2) For the purposes of this act, the term "retail sale" includes:
28 sales of tangible personal property to all contractors, subcontractors or
29 repairmen of materials and supplies for use by them in erecting
30 structures for others, or building on, or otherwise improving, altering,
31 or repairing real property of others.

32 (3) (Deleted by amendment, P.L.2005, c.126).

33 (4) The term "retail sale" does not include:

34 (A) Professional, insurance, or personal service transactions which
35 involve the transfer of tangible personal property as an inconsequential
36 element, for which no separate charges are made.

37 (B) The transfer of tangible personal property to a corporation,
38 solely in consideration for the issuance of its stock, pursuant to a
39 merger or consolidation effected under the laws of New Jersey or any
40 other jurisdiction.

41 (C) The distribution of property by a corporation to its stockholders
42 as a liquidating dividend.

43 (D) The distribution of property by a partnership to its partners in
44 whole or partial liquidation.

45 (E) The transfer of property to a corporation upon its organization
46 in consideration for the issuance of its stock.

47 (F) The contribution of property to a partnership in consideration
48 for a partnership interest therein.

1 (G) The sale of tangible personal property where the purpose of the
2 vendee is to hold the thing transferred as security for the performance
3 of an obligation of the seller.

4 (f) "Sale, selling or purchase" means any transfer of title or
5 possession or both, exchange or barter, rental, lease or license to use or
6 consume, conditional or otherwise, in any manner or by any means
7 whatsoever for a consideration, or any agreement therefor, including
8 the rendering of any service, taxable under this act, for a consideration
9 or any agreement therefor.

10 (g) "Tangible personal property" means personal property that can
11 be seen, weighed, measured, felt, or touched, or that is in any other
12 manner perceptible to the senses. "Tangible personal property"
13 includes electricity, water, gas, steam, and prewritten computer
14 software including prewritten computer software delivered
15 electronically.

16 (h) "Use" means the exercise of any right or power over tangible
17 personal property, specified digital products, services to property or
18 products, or services by the purchaser thereof and includes, but is not
19 limited to, the receiving, storage or any keeping or retention for any
20 length of time, withdrawal from storage, any distribution, any
21 installation, any affixation to real or personal property, or any
22 consumption of such property or products. Use also includes the
23 exercise of any right or power over intrastate or interstate
24 telecommunications and prepaid calling services. Use also includes
25 the exercise of any right or power over utility service. Use also
26 includes the derivation of a direct or indirect benefit from a service.

27 (i) "Seller" means a person making sales, leases or rentals of
28 personal property or services.

29 (1) The term "seller" includes:

30 (A) A person making sales, leases or rentals of tangible personal
31 property, specified digital products or services, the receipts from
32 which are taxed by this act;

33 (B) A person maintaining a place of business in the State or having
34 an agent maintaining a place of business in the State and making sales,
35 whether at such place of business or elsewhere, to persons within the
36 State of tangible personal property, specified digital products or
37 services, the use of which is taxed by this act;

38 (C) A person who solicits business either by employees,
39 independent contractors, agents or other representatives or by
40 distribution of catalogs or other advertising matter and by reason
41 thereof makes sales to persons within the State of tangible personal
42 property, specified digital products or services, the use of which is
43 taxed by this act.

44 A person making sales of tangible personal property, specified
45 digital products, or services taxable under the "Sales and Use Tax
46 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
47 soliciting business through an independent contractor or other
48 representative if the person making sales enters into an agreement with

1 an independent contractor having physical presence in this State or
2 other representative having physical presence in this State, for a
3 commission or other consideration, under which the independent
4 contractor or representative directly or indirectly refers potential
5 customers, whether by a link on an internet website or otherwise, and
6 the cumulative gross receipts from sales to customers in this State who
7 were referred by all independent contractors or representatives that
8 have this type of an agreement with the person making sales are in
9 excess of \$10,000 during the preceding four quarterly periods ending
10 on the last day of March, June, September, and December. This
11 presumption may be rebutted by proof that the independent contractor
12 or representative with whom the person making sales has an agreement
13 did not engage in any solicitation in the State on behalf of the person
14 that would satisfy the nexus requirements of the United States
15 Constitution during the four quarterly periods in question. Nothing in
16 this subparagraph shall be construed to narrow the scope of the terms
17 independent contractor or other representative for purposes of any
18 other provision of the "Sales and Use Tax Act," P.L.1966,
19 c.30 (C.54:32B-1 et seq.);

20 (D) Any other person making sales to persons within the State of
21 tangible personal property, specified digital products or services, the
22 use of which is taxed by this act, who may be authorized by the
23 director to collect the tax imposed by this act;

24 (E) The State of New Jersey, any of its agencies, instrumentalities,
25 public authorities, public corporations (including a public corporation
26 created pursuant to agreement or compact with another state) or
27 political subdivisions when such entity sells services or property of a
28 kind ordinarily sold by private persons;

29 (F) (Deleted by amendment, P.L.2005, c.126);

30 (G) A person who sells, stores, delivers or transports energy to
31 users or customers in this State whether by mains, lines or pipes
32 located within this State or by any other means of delivery;

33 (H) A person engaged in collecting charges in the nature of
34 initiation fees, membership fees or dues for access to or use of the
35 property or facilities of a health and fitness, athletic, sporting or
36 shopping club or organization;

37 (I) A person engaged in the business of parking, storing or
38 garaging motor vehicles;

39 (J) A person making sales, leases, or rentals of tangible personal
40 property, specified digital products, or taxable services who meets the
41 criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018, c.132
42 (C.54:32B-3.5); and

43 (K) A marketplace facilitator.

44 (2) In addition, when in the opinion of the director it is necessary
45 for the efficient administration of this act to treat any salesman,
46 representative, peddler or canvasser as the agent of the seller,
47 distributor, supervisor or employer under whom the agent operates or
48 from whom the agent obtains tangible personal property or a specified

1 digital product sold by the agent or for whom the agent solicits
2 business, the director may, in the director's discretion, treat such agent
3 as the seller jointly responsible with the agent's principal, distributor,
4 supervisor or employer for the collection and payment over of the tax.
5 A person is an agent of a seller in all cases, but not limited to such
6 cases, that: (A) the person and the seller have the relationship of a
7 "related person" described pursuant to section 2 of P.L.1993, c.170
8 (C.54:10A-5.5); and (B) the seller and the person use an identical or
9 substantially similar name, tradename, trademark, or goodwill, to
10 develop, promote, or maintain sales, or the person and the seller pay
11 for each other's services in whole or in part contingent upon the
12 volume or value of sales, or the person and the seller share a common
13 business plan or substantially coordinate their business plans, or the
14 person provides services to, or that inure to the benefit of, the seller
15 related to developing, promoting, or maintaining the seller's market.

16 (3) Notwithstanding any other provision of law or administrative
17 action to the contrary, transient space marketplaces shall be required to
18 collect and pay on behalf of persons engaged in the business of
19 providing transient accommodations ¹【or hotel rooms】¹ located in this
20 State the tax for transactions ¹【solely consummated】 obtained¹
21 through the transient space marketplace. For not less than four years
22 following the end of the calendar year in which the transaction
23 occurred, the transient space marketplace shall maintain the following
24 data for those transactions consummated through the transient space
25 marketplace:

26 (A) The name of the person who provided the transient
27 accommodation ¹【or hotel room】¹;

28 (B) The name of the customer who procured occupancy of the
29 transient accommodation ¹【or hotel room】¹;

30 (C) The address, including any unit designation, of the transient
31 accommodation ¹【or hotel room】¹;

32 (D) The dates and nightly rates for which the consumer procured
33 occupancy of the transient accommodation ¹【or hotel room】¹;

34 (E) The municipal transient accommodation registration number, if
35 applicable;

36 (F) A statement as to whether such booking services will be
37 provided in connection with (i) short-term rental of the entirety of such
38 unit, (ii) short-term rental of part of such unit, but not the entirety of
39 such unit, and/or (iii) short-term rental of the entirety of such unit, or
40 part thereof, in which a non-short-term occupant will continue to
41 occupy such unit for the duration of such short-term rental;

42 (G) The individualized name or number of each such advertisement
43 or listing connected to such unit and the uniform resource locator
44 (URL) for each such listing or advertisement, where applicable; and

45 (H) Such other information as the Division of Taxation may by rule
46 require.

- 1 The Division of Taxation may audit transient space marketplaces
2 as necessary to ensure data accuracy and enforce tax compliance.
- 3 (j) "Hotel" means a building or portion of a building which is
4 regularly used and kept open as such for the lodging of guests.
5 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
6 boarding house or club, whether or not meals are served, but does not
7 include a transient accommodation.
- 8 (k) "Occupancy" means the use or possession or the right to the
9 use or possession, of any room in a hotel or transient accommodation.
- 10 (l) "Occupant" means a person who, for a consideration, uses,
11 possesses, or has the right to use or possess, any room in a hotel or
12 transient accommodation under any lease, concession, permit, right of
13 access, license to use or other agreement, or otherwise.
- 14 (m) "Permanent resident" means any occupant of any room or
15 rooms in a hotel or transient accommodation for at least 90
16 consecutive days shall be considered a permanent resident with regard
17 to the period of such occupancy.
- 18 (n) "Room" means any room or rooms of any kind in any part or
19 portion of a hotel or transient accommodation, which is available for
20 or let out for any purpose other than a place of assembly.
- 21 (o) "Admission charge" means the amount paid for admission,
22 including any service charge and any charge for entertainment or
23 amusement or for the use of facilities therefor.
- 24 (p) "Amusement charge" means any admission charge, dues or
25 charge of a roof garden, cabaret or other similar place.
- 26 (q) "Charge of a roof garden, cabaret or other similar place" means
27 any charge made for admission, refreshment, service, or merchandise
28 at a roof garden, cabaret or other similar place.
- 29 (r) "Dramatic or musical arts admission charge" means any
30 admission charge paid for admission to a theater, opera house, concert
31 hall or other hall or place of assembly for a live, dramatic,
32 choreographic or musical performance.
- 33 (s) "Lessor" means any person who is the owner, licensee, or
34 lessee of any premises, tangible personal property or a specified digital
35 product which the person leases, subleases, or grants a license to use to
36 other persons.
- 37 (t) "Place of amusement" means any place where any facilities for
38 entertainment, amusement, or sports are provided.
- 39 (u) "Casual sale" means an isolated or occasional sale of an item of
40 tangible personal property or a specified digital product by a person
41 who is not regularly engaged in the business of making retail sales of
42 such property or product where the item of tangible personal property
43 or the specified digital product was obtained by the person making the
44 sale, through purchase or otherwise, for the person's own use.
- 45 (v) "Motor vehicle" includes all vehicles propelled otherwise than
46 by muscular power (excepting such vehicles as run only upon rails or
47 tracks), trailers, semitrailers, house trailers, or any other type of

1 vehicle drawn by a motor-driven vehicle, and motorcycles, designed
2 for operation on the public highways.

3 (w) "Persons required to collect tax" or "persons required to collect
4 any tax imposed by this act" includes: every seller of tangible personal
5 property, specified digital products or services; every recipient of
6 amusement charges; every operator of a hotel or transient
7 accommodation; every transient space marketplace; every marketplace
8 facilitator; every seller of a telecommunications service; every
9 recipient of initiation fees, membership fees or dues for access to or
10 use of the property or facilities of a health and fitness, athletic,
11 sporting or shopping club or organization; and every recipient of
12 charges for parking, storing or garaging a motor vehicle. Said terms
13 shall also include any officer or employee of a corporation or of a
14 dissolved corporation who as such officer or employee is under a duty
15 to act for such corporation in complying with any requirement of this
16 act and any member of a partnership.

17 (x) "Customer" includes: every purchaser of tangible personal
18 property, specified digital products or services; every patron paying or
19 liable for the payment of any amusement charge; every occupant of a
20 room or rooms in a hotel or transient accommodation; every person
21 paying charges in the nature of initiation fees, membership fees or
22 dues for access to or use of the property or facilities of a health and
23 fitness, athletic, sporting or shopping club or organization; and every
24 purchaser of parking, storage or garaging a motor vehicle.

25 (y) "Property and services the use of which is subject to tax"
26 includes: (1) all property sold to a person within the State, whether or
27 not the sale is made within the State, the use of which property is
28 subject to tax under section 6 or will become subject to tax when such
29 property is received by or comes into the possession or control of such
30 person within the State; (2) all services rendered to a person within the
31 State, whether or not such services are performed within the State,
32 upon tangible personal property or a specified digital product the use
33 of which is subject to tax under section 6 or will become subject to tax
34 when such property or product is distributed within the State or is
35 received by or comes into possession or control of such person within
36 the State; (3) intrastate, interstate, or international telecommunications
37 sourced to this State pursuant to section 29 of P.L.2005, c.126
38 (C.54:32B-3.4); (4) (Deleted by amendment, P.L.1995, c.184); (5)
39 energy sold, exchanged or delivered in this State for use in this State;
40 (6) utility service sold, exchanged or delivered in this State for use in
41 this State; (7) mail processing services in connection with printed
42 advertising material distributed in this State; (8) (Deleted by
43 amendment, P.L.2005, c.126); and (9) services the benefit of which are
44 received in this State.

45 (z) "Director" means the Director of the Division of Taxation in
46 the State Department of the Treasury, or any officer, employee or
47 agency of the Division of Taxation in the Department of the Treasury
48 duly authorized by the director (directly, or indirectly by one or more

1 redelegations of authority) to perform the functions mentioned or
2 described in this act.

3 (aa) "Lease or rental" means any transfer of possession or control
4 of tangible personal property for a fixed or indeterminate term for
5 consideration. A "lease or rental" may include future options to
6 purchase or extend.

7 (1) "Lease or rental" does not include:

8 (A) A transfer of possession or control of property under a security
9 agreement or deferred payment plan that requires the transfer of title
10 upon completion of the required payments;

11 (B) A transfer of possession or control of property under an
12 agreement that requires the transfer of title upon completion of
13 required payments and payment of an option price does not exceed the
14 greater of \$100 or one percent of the total required payments; or

15 (C) Providing tangible personal property or a specified digital
16 product along with an operator for a fixed or indeterminate period of
17 time. A condition of this exclusion is that the operator is necessary for
18 the equipment to perform as designed. For the purpose of this
19 subparagraph, an operator must do more than maintain, inspect, or set-
20 up the tangible personal property or specified digital product.

21 (2) "Lease or rental" does include agreements covering motor
22 vehicles and trailers where the amount of consideration may be
23 increased or decreased by reference to the amount realized upon sale
24 or disposition of the property as defined in 26 U.S.C. s.7701(h)(1).

25 (3) The definition of "lease or rental" provided in this subsection
26 shall be used for the purposes of this act regardless of whether a
27 transaction is characterized as a lease or rental under generally
28 accepted accounting principles, the federal Internal Revenue Code or
29 other provisions of federal, state or local law.

30 (bb) (Deleted by amendment, P.L.2005, c.126).

31 (cc) "Telecommunications service" means the electronic
32 transmission, conveyance, or routing of voice, data, audio, video, or
33 any other information or signals to a point, or between or among
34 points.

35 "Telecommunications service" shall include such transmission,
36 conveyance, or routing in which computer processing applications are
37 used to act on the form, code, or protocol of the content for purposes
38 of transmission, conveyance, or routing without regard to whether
39 such service is referred to as voice over Internet protocol services or is
40 classified by the Federal Communications Commission as enhanced or
41 value added.

42 "Telecommunications service" shall not include:

43 (1) (Deleted by amendment, P.L.2008, c.123);

44 (2) (Deleted by amendment, P.L.2008, c.123);

45 (3) (Deleted by amendment, P.L.2008, c.123);

46 (4) (Deleted by amendment, P.L.2008, c.123);

47 (5) (Deleted by amendment, P.L.2008, c.123);

48 (6) (Deleted by amendment, P.L.2008, c.123);

1 (7) data processing and information services that allow data to be
2 generated, acquired, stored, processed, or retrieved and delivered by an
3 electronic transmission to a purchaser where such purchaser's primary
4 purpose for the underlying transaction is the processed data or
5 information;

6 (8) installation or maintenance of wiring or equipment on a
7 customer's premises;

8 (9) tangible personal property;

9 (10) advertising, including but not limited to directory advertising;

10 (11) billing and collection services provided to third parties;

11 (12) internet access service;

12 (13) radio and television audio and video programming services,
13 regardless of the medium, including the furnishing of transmission,
14 conveyance, and routing of such services by the programming service
15 provider. Radio and television audio and video programming services
16 shall include but not be limited to cable service as defined in section
17 47 U.S.C. s.522(6) and audio and video programming services
18 delivered by commercial mobile radio service providers, as defined in
19 section 47 C.F.R. 20.3;

20 (14) ancillary services; or

21 (15) digital products delivered electronically, including but not
22 limited to software, music, video, reading materials, or ringtones.

23 For the purposes of this subsection:

24 "ancillary service" means a service that is associated with or
25 incidental to the provision of telecommunications services, including
26 but not limited to detailed telecommunications billing, directory
27 assistance, vertical service, and voice mail service; "conference
28 bridging service" means an ancillary service that links two or more
29 participants of an audio or video conference call and may include the
30 provision of a telephone number. Conference bridging service does
31 not include the telecommunications services used to reach the
32 conference bridge;

33 "detailed telecommunications billing service" means an ancillary
34 service of separately stating information pertaining to individual calls
35 on a customer's billing statement;

36 "directory assistance" means an ancillary service of providing
37 telephone number information or address information or both;

38 "vertical service" means an ancillary service that is offered in
39 connection with one or more telecommunications services, which
40 offers advanced calling features that allow customers to identify
41 callers and to manage multiple calls and call connections, including
42 conference bridging services; and

43 "voice mail service" means an ancillary service that enables the
44 customer to store, send, or receive recorded messages. Voice mail
45 service does not include any vertical service that a customer may be
46 required to have to utilize the voice mail service.

47 (dd) (1) "Intrastate telecommunications" means a
48 telecommunications service that originates in one United States state

1 or a United States territory or possession or federal district, and
2 terminates in the same United States state or United States territory or
3 possession or federal district.

4 (2) "Interstate telecommunications" means a telecommunications
5 service that originates in one United States state or a United States
6 territory or possession or federal district, and terminates in a different
7 United States state or United States territory or possession or federal
8 district.

9 (3) "International telecommunications" means a
10 telecommunications service that originates or terminates in the United
11 States and terminates or originates outside the United States,
12 respectively. "United States" includes the District of Columbia or a
13 United States territory or possession.

14 (ee) (Deleted by amendment, P.L.2008, c.123)

15 (ff) "Natural gas" means any gaseous fuel distributed through a
16 pipeline system.

17 (gg) "Energy" means natural gas or electricity.

18 (hh) "Utility service" means the transportation or transmission of
19 natural gas or electricity by means of mains, wires, lines or pipes, to
20 users or customers.

21 (ii) "Self-generation unit" means a facility located on the user's
22 property, or on property purchased or leased from the user by the
23 person owning the self-generation unit and such property is contiguous
24 to the user's property, which generates electricity to be used only by
25 that user on the user's property and is not transported to the user over
26 wires that cross a property line or public thoroughfare unless the
27 property line or public thoroughfare merely bifurcates the user's or
28 self-generation unit owner's otherwise contiguous property.

29 (jj) "Co-generation facility" means a facility the primary purpose
30 of which is the sequential production of electricity and steam or other
31 forms of useful energy which are used for industrial or commercial
32 heating or cooling purposes and which is designated by the Federal
33 Energy Regulatory Commission, or its successor, as a "qualifying
34 facility" pursuant to the provisions of the "Public Utility Regulatory
35 Policies Act of 1978," Pub.L.95-617.

36 (kk) "Non-utility" means a company engaged in the sale, exchange
37 or transfer of natural gas that was not subject to the provisions of
38 P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

39 (ll) "Pre-paid calling service" means the right to access exclusively
40 telecommunications services, which shall be paid for in advance and
41 which enables the origination of calls using an access number or
42 authorization code, whether manually or electronically dialed, and that
43 is sold in predetermined units or dollars of which the number declines
44 with use in a known amount.

45 (mm) "Mobile telecommunications service" means the same as that
46 term is defined in the federal "Mobile Telecommunications Sourcing
47 Act," 4 U.S.C. s.124 (Pub.L.106-252).

48 (nn) (Deleted by amendment, P.L.2008, c.123)

- 1 (oo) (1) "Sales price" is the measure subject to sales tax and means
2 the total amount of consideration, including cash, credit, property, and
3 services, for which personal property or services are sold, leased, or
4 rented, valued in money, whether received in money or otherwise,
5 without any deduction for the following:
- 6 (A) The seller's cost of the property sold;
 - 7 (B) The cost of materials used, labor or service cost, interest,
8 losses, all costs of transportation to the seller, all taxes imposed on the
9 seller, and any other expense of the seller;
 - 10 (C) Charges by the seller for any services necessary to complete
11 the sale;
 - 12 (D) Delivery charges;
 - 13 (E) (Deleted by amendment, P.L.2011, c.49); and
 - 14 (F) (Deleted by amendment, P.L.2008, c.123).
- 15 (2) "Sales price" does not include:
- 16 (A) Discounts, including cash, term, or coupons that are not
17 reimbursed by a third party, that are allowed by a seller and taken by a
18 purchaser on a sale;
 - 19 (B) Interest, financing, and carrying charges from credit extended
20 on the sale of personal property or services, if the amount is separately
21 stated on the invoice, bill of sale, or similar document given to the
22 purchaser;
 - 23 (C) Any taxes legally imposed directly on the consumer that are
24 separately stated on the invoice, bill of sale, or similar document given
25 to the purchaser;
 - 26 (D) The amount of sales price for which food stamps have been
27 properly tendered in full or part payment pursuant to the federal Food
28 Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
 - 29 (E) Credit for any trade-in of property of the same kind accepted in
30 part payment and intended for resale if the amount is separately stated
31 on the invoice, bill of sale, or similar document given to the purchaser.
- 32 (3) "Sales price" includes consideration received by the seller from
33 third parties if:
- 34 (A) The seller actually receives consideration from a party other
35 than the purchaser and the consideration is directly related to a price
36 reduction or discount on the sale;
 - 37 (B) The seller has an obligation to pass the price reduction or
38 discount through to the purchaser;
 - 39 (C) The amount of the consideration attributable to the sale is fixed
40 and determinable by the seller at the time of the sale of the item to the
41 purchaser; and
 - 42 (D) One of the following criteria is met:
 - 43 (i) the purchaser presents a coupon, certificate, or other
44 documentation to the seller to claim a price reduction or discount
45 where the coupon, certificate, or documentation is authorized,
46 distributed, or granted by a third party with the understanding that the
47 third party will reimburse any seller to whom the coupon, certificate,
48 or documentation is presented;

- 1 (ii) the purchaser identifies himself to the seller as a member of a
2 group or organization entitled to a price reduction or discount;
3 provided however, that a preferred customer card that is available to
4 any patron does not constitute membership in such a group; or
5 (iii) the price reduction or discount is identified as a third party
6 price reduction or discount on the invoice received by the purchaser or
7 on a coupon, certificate, or other documentation presented by the
8 purchaser.
- 9 (4) In the case of a bundled transaction that includes a
10 telecommunications service, an ancillary service, internet access, or an
11 audio or video programming service, if the price is attributable to
12 products that are taxable and products that are nontaxable, the portion
13 of the price attributable to the nontaxable products is subject to tax
14 unless the provider can identify by reasonable and verifiable standards
15 such portion from its books and records that are kept in the regular
16 course of business for other purposes, including non-tax purposes.
- 17 (pp) "Purchase price" means the measure subject to use tax and has
18 the same meaning as "sales price."
- 19 (qq) "Sales tax" means the tax imposed on certain transactions
20 pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966,
21 c.30 (C.54:32B-1 et seq.).
- 22 (rr) "Delivery charges" means charges by the seller for preparation
23 and delivery to a location designated by the purchaser of personal
24 property or services including, but not limited to, transportation,
25 shipping, postage, handling, crating, and packing. If a shipment
26 includes both exempt and taxable property, the seller should allocate
27 the delivery charge by using: (1) a percentage based on the total sales
28 price of the taxable property compared to the total sales price of all
29 property in the shipment; or (2) a percentage based on the total weight
30 of the taxable property compared to the total weight of all property in
31 the shipment. The seller shall tax the percentage of the delivery charge
32 allocated to the taxable property but is not required to tax the
33 percentage allocated to the exempt property.
- 34 (ss) "Direct mail" means printed material delivered or distributed
35 by United States mail or other delivery service to a mass audience or
36 to addresses on a mailing list provided by the purchaser or at the
37 direction of the purchaser in cases in which the cost of the items are
38 not billed directly to the recipients. "Direct mail" includes tangible
39 personal property supplied directly or indirectly by the purchaser to the
40 direct mail seller for inclusion in the package containing the printed
41 material. "Direct mail" does not include multiple items of printed
42 material delivered to a single address.
- 43 (tt) "Streamlined Sales and Use Tax Agreement" means the
44 agreement entered into as governed and authorized by the "Uniform
45 Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-44
46 et seq.).

- 1 (uu) "Alcoholic beverages" means beverages that are suitable for
2 human consumption and contain one-half of one percent or more of
3 alcohol by volume.
- 4 (vv) (Deleted by amendment, P.L.2011, c.49)
- 5 (ww) "Landscaping services" means services that result in a capital
6 improvement to land other than structures of any kind whatsoever,
7 such as: seeding, sodding or grass plugging of new lawns; planting
8 trees, shrubs, hedges, plants; and clearing and filling land.
- 9 (xx) "Investigation and security services" means:
- 10 (1) investigation and detective services, including detective
11 agencies and private investigators, and fingerprint, polygraph, missing
12 person tracing and skip tracing services;
- 13 (2) security guard and patrol services, including bodyguard and
14 personal protection, guard dog, guard, patrol, and security services;
- 15 (3) armored car services; and
- 16 (4) security systems services, including security, burglar, and fire
17 alarm installation, repair or monitoring services.
- 18 (yy) "Information services" means the furnishing of information of
19 any kind, which has been collected, compiled, or analyzed by the
20 seller, and provided through any means or method, other than personal
21 or individual information which is not incorporated into reports
22 furnished to other people.
- 23 (zz) "Specified digital product" means an electronically transferred
24 digital audio-visual work, digital audio work, or digital book; provided
25 however, that a digital code which provides a purchaser with a right to
26 obtain the product shall be treated in the same manner as a specified
27 digital product.
- 28 (aaa) "Digital audio-visual work" means a series of related images
29 which, when shown in succession, impart an impression of motion,
30 together with accompanying sounds, if any.
- 31 (bbb) "Digital audio work" means a work that results from the
32 fixation of a series of musical, spoken, or other sounds, including a
33 ringtone.
- 34 (ccc) "Digital book" means a work that is generally recognized in
35 the ordinary and usual sense as a book.
- 36 (ddd) "Transferred electronically" means obtained by the purchaser
37 by means other than tangible storage media.
- 38 (eee) "Ringtone" means a digitized sound file that is downloaded
39 onto a device and that may be used to alert the purchaser with respect
40 to a communication.
- 41 (fff) "Residence" means a house, condominium, or other
42 residential dwelling unit in a building or structure or part of a building
43 or structure that is designed, constructed, leased, rented, let or hired
44 out, or otherwise made available for use as a residence.
- 45 (ggg) "Transient accommodation" means a room, group of rooms,
46 or other living or sleeping space for the lodging of occupants, ¹if
47 obtained through a transient space marketplace,¹ including but not
48 limited to residences or buildings used as residences ¹, that is obtained

1 through a transient space marketplace or is a professionally managed
 2 unit¹. "Transient accommodation" does not include: a hotel or hotel
 3 room; a room, group of rooms, or other living or sleeping space used
 4 as a place of assembly; a dormitory or other similar residential facility
 5 of an elementary or secondary school or a college or university; a
 6 hospital, nursing home, or other similar residential facility of a
 7 provider of services for the care, support and treatment of individuals
 8 that is licensed by the State; a campsite, cabin, lean-to, or other similar
 9 residential facility of a campground or an adult or youth camp; a
 10 furnished or unfurnished private residential property, including but not
 11 limited to condominiums, bungalows, single-family homes and similar
 12 living units, where no maid service, room service, linen changing
 13 service or other common hotel services are made available by the
 14 lessor and where the keys to the furnished or unfurnished private
 15 residential property, whether a physical key, access to a keyless
 16 locking mechanism, or other means of physical ingress to the
 17 furnished or unfurnished private residential property, are provided to
 18 the lessee at the location of an offsite real estate broker licensed by the
 19 New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.
 20 ²], and provided that the rental is entirely facilitated by the real estate
 21 broker¹]²; or leases of real property with a term of at least 90
 22 consecutive days.

23 (hhh) "Transient space marketplace" means [an online] a
 24 marketplace or travel agency through which a person may offer
 25 transient accommodations [or hotel rooms] to [individuals]
 26 customers and through which customers may arrange ²[and pay]² for
 27 occupancies of transient accommodations ²[¹; provided that the
 28 transient space marketplace collects the payment on behalf of the
 29 person offering the transient accommodation¹]². [A "transient space
 30 marketplace" allows transient accommodations or hotel rooms to be
 31 advertised or listed through an online marketplace in exchange for
 32 consideration or provides a means for a customer to arrange for the
 33 occupancy of the transient accommodation or hotel room in exchange
 34 for consideration. A 'transient space marketplace' shall not include an
 35 online marketplace operated by or on behalf of a hotel or hotel
 36 corporation that facilitates customer occupancy solely for the hotel or
 37 hotel corporation's owned or managed hotels and franchisees, and shall
 38 not include a travel agency or an online travel agency.] "Transient
 39 space marketplace" does not include a marketplace or travel agency
 40 that exclusively offers transient accommodations ¹in the State¹ owned
 41 by the owner of the ²[transient space]² marketplace ²or travel
 42 agency².

43 ¹(iii) "Professionally managed unit" means a room, group of
 44 rooms, or other living or sleeping space for the lodging of occupants in
 45 the State, that is offered for rent as a rental unit that does not share any
 46 living or sleeping space with any other rental unit, and that is directly

1 or indirectly owned or controlled by a person offering for rent two or
2 more other units during the calendar year.¹

3 ²(jii) “Obtained through a transient space marketplace” means that
4 payment for the accommodation is made through a means provided
5 by the marketplace or travel agency, either directly or indirectly,
6 regardless of which person or entity receives the payment, and
7 where the contracting for the accommodation is made through the
8 marketplace or travel agency.²

9 (cf: P.L.2018, c.132, s.3)

10

11 ¹14. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
12 read as follows:

13 1. a. The director shall collect and administer any tax imposed
14 pursuant to the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.),
15 amended and supplemented by P.L.1979, c.273, notwithstanding the
16 provisions of any other law or ordinance to the contrary. In
17 carrying out the provisions of this supplementary act the director
18 shall have all the powers granted in P.L.1966, c.30 (C.54:32B-
19 1 et seq.).

20 b. The director shall determine and certify to the State
21 Treasurer on a monthly basis the amount of revenues payable to any
22 municipality which has enacted a tax pursuant to P.L.1947, c.71
23 (C.40:48-8.15 et seq.) and collected by the director pursuant to this
24 supplementary act. The State Treasurer upon the certification of the
25 director and upon the warrant of the State Comptroller, shall pay
26 and distribute on a monthly basis to each municipality the amount
27 so determined and certified.

28 c. The director may furnish to a municipality, at his discretion,
29 copies of tax reports or returns relating to taxes imposed under any
30 municipal ordinance heretofore adopted by that municipality
31 pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.).

32 d. (1) Each vendor required to collect the tax imposed by a
33 municipal ordinance which was adopted pursuant to the provisions
34 of P.L.1947, c.71 (C.40:48-8.15 et seq.) shall be personally liable
35 for the tax imposed, collected, or required to be paid, collected, or
36 remitted under the ordinance. Any such vendor shall have the same
37 right in respect to collecting the tax from that vendor's customer or
38 in respect to non-payment of the tax by the customer as if the tax
39 were a part of the purchase price of the property or service,
40 amusement charge or rent, as the case may be, and payable at the
41 same time; provided however, that the director shall be joined as a
42 party in any action or proceeding brought to collect the tax.

43 (2) For purposes of this subsection, "vendor" includes: an
44 individual, partnership, corporation, or an officer, director,
45 stockholder, or employee of a corporation, or a member or
46 employee of a partnership, who as such officer, director,
47 stockholder, employee, or member is under the duty to perform the
48 act in respect of which the violation occurs.

1 e. Notwithstanding any other provision of law or administrative
2 action to the contrary, transient space marketplaces shall be
3 required to collect and pay on behalf of persons engaged in the
4 business of providing transient accommodations **【or hotel rooms】**
5 located in this State the tax for transactions **【solely consummated】**
6 obtained through the transient space marketplace. For not less than
7 four years following the end of the calendar year in which the
8 transaction occurred, the transient space marketplace shall maintain
9 the following data for those transactions consummated through the
10 transient space marketplace:

11 (1) The name of the person who provided the transient
12 accommodation **【or hotel room】**;

13 (2) The name of the customer who procured occupancy of the
14 transient accommodation **【or hotel room】**;

15 (3) The address, including any unit designation, of the transient
16 accommodation **【or hotel room】**;

17 (4) The dates and nightly rates for which the consumer procured
18 occupancy of the transient accommodation **【or hotel room】**;

19 (5) The municipal transient accommodation registration number,
20 if applicable;

21 (6) A statement as to whether such booking services will be
22 provided in connection with (i) short-term rental of the entirety of
23 such unit, (ii) short-term rental of part of such unit, but not the
24 entirety of such unit, and/or (iii) short-term rental of the entirety of
25 such unit, or part thereof, in which a non-short-term occupant will
26 continue to occupy such unit for the duration of such short-term
27 rental;

28 (7) The individualized name or number of each such
29 advertisement or listing connected to such unit and the uniform
30 resource locator (URL) for each such listing or advertisement,
31 where applicable; and

32 (8) Such other information as the Division of Taxation may by
33 rule require.

34 The Division of Taxation may audit transient space marketplaces as
35 necessary to ensure data accuracy and enforce tax compliance.¹

36 (cf: P.L.2018, c.49, s.7)

37

38 ¹15. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to
39 read as follows:

40 2. a. The Director of the Division of Taxation shall collect and
41 administer the fee imposed pursuant to section 1 of P.L.2003, c.114
42 (C.54:32D-1). The fees collected shall be deposited to the General
43 Fund, and shall be allocated as follows:

44 (1) of the fees collected for occupancies during State Fiscal
45 Year 2004: \$16,000,000 shall be allocated for appropriation to the
46 New Jersey State Council on the Arts for cultural projects;
47 \$2,700,000 shall be allocated for appropriation to the New Jersey

1 Historical Commission for the purposes of subsection a. of section 3
2 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
3 for appropriation to the New Jersey Commerce and Economic
4 Growth Commission for tourism advertising and promotion; and
5 \$500,000 shall be allocated for appropriation to the New Jersey
6 Cultural Trust; and

7 (2) of the fees collected for occupancies during State Fiscal
8 Year 2005 and thereafter: 22.68 percent shall be annually allocated
9 for appropriation to the New Jersey State Council on the Arts for
10 cultural projects, provided that the amount allocated shall not be
11 less than \$22,680,000; 3.84 percent shall be allocated for
12 appropriation to the New Jersey Historical Commission for the
13 purposes of subsection a. of section 3 of P.L.1999, c.131
14 (C.18A:73-22.3), provided that the amount allocated shall not be
15 less than \$3,840,000; 12.76 percent shall be allocated for
16 appropriation to the New Jersey Commerce and Economic Growth
17 Commission for tourism advertising and promotion, provided that
18 the amount allocated shall not be less than \$12,760,000; and .72
19 percent shall be allocated for appropriation to the New Jersey
20 Cultural Trust, provided that the amount allocated shall not be less
21 than \$720,000.

22 b. (1) In carrying out the provisions of section 1 of P.L.2003,
23 c.114 (C.54:32D-1) and this section, the director shall have all of
24 the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et
25 seq.). The tax shall be filed and paid in a manner prescribed by the
26 Director of the Division of Taxation. The director shall promulgate
27 such rules and regulations as the director determines are necessary
28 to effectuate the provisions of section 1 of P.L.2003, c.114
29 (C.54:32D-1) and this section.

30 (2) Each person required to collect the hotel and motel
31 occupancy fee shall be personally liable for the fee imposed,
32 collected, or required to be paid, collected, or remitted under
33 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall
34 have the same right in respect to collecting the fee from that
35 person's customer or in respect to non-payment of the fee by the
36 customer as if the fee were a part of the purchase price of the
37 occupancy or rent, as the case may be, and payable at the same
38 time; provided however, that the director shall be joined as a party
39 in any action or proceeding brought to collect the fee.

40 For purposes of this paragraph, "person" includes: an individual,
41 partnership, corporation, or an officer, director, stockholder, or
42 employee of a corporation, or a member or employee of a
43 partnership, who as such officer, director, stockholder, employee, or
44 member is under the duty to perform the act in respect of which the
45 violation occurs.

46 (3) Notwithstanding any other provision of law or
47 administrative action to the contrary, transient space marketplaces
48 shall be required to collect and pay on behalf of persons engaged in

1 the business of providing transient accommodations [or hotel
2 rooms] located in this State the tax for transactions [solely
3 consummated] obtained through the transient space marketplace.
4 For not less than four years following the end of the calendar year
5 in which the transaction occurred, the transient space marketplace
6 shall maintain the following data for those transactions
7 consummated through the transient space marketplace:

8 (1) The name of the person who provided the transient
9 accommodation [or hotel room];

10 (2) The name of the customer who procured occupancy of the
11 transient accommodation [or hotel room];

12 (3) The address, including any unit designation, of the transient
13 accommodation [or hotel room];

14 (4) The dates and nightly rates for which the consumer procured
15 occupancy of the transient accommodation [or hotel room];

16 (5) The municipal transient accommodation registration number,
17 if applicable;

18 (6) A statement as to whether such booking services will be
19 provided in connection with (i) short-term rental of the entirety of
20 such unit, (ii) short-term rental of part of such unit, but not the
21 entirety of such unit, and/or (iii) short-term rental of the entirety of
22 such unit, or part thereof, in which a non-short-term occupant will
23 continue to occupy such unit for the duration of such short-term
24 rental;

25 (7) The individualized name or number of each such
26 advertisement or listing connected to such unit and the uniform
27 resource locator (URL) for each such listing or advertisement,
28 where applicable; and

29 (8) Such other information as the Division of Taxation may by
30 rule require.

31 The Division of Taxation may audit transient space marketplaces as
32 necessary to ensure data accuracy and enforce tax compliance.

33 c. The annual appropriations act for each State Fiscal Year,
34 commencing with fiscal year 2005, shall appropriate and distribute
35 during that fiscal year amounts not less than the amounts otherwise
36 specified for State Fiscal Year 2004 in paragraph (1) of subsection
37 a. of this section for the purposes specified in paragraph (1) of
38 subsection a. of this section.

39 d. If the provisions of subsection c. of this section are not met
40 on the effective date of an annual appropriations act for the State
41 fiscal year, or if an amendment or supplement to an annual
42 appropriations act for the State fiscal year should violate the
43 provisions of subsection c. of this section, the Director of the
44 Division of Budget and Accounting in the Department of the
45 Treasury shall, not later than five days after the enactment of the
46 annual appropriations act, or an amendment or supplement thereto,
47 that violates the provisions of subsection c. of this section, certify to

1 the Director of the Division of Taxation that the requirements of
2 subsection c. of this section have not been met.

3 e. The Director of the Division of Taxation shall, no later than
4 five days after certification by the Director of the Division of
5 Budget and Accounting in the Department of the Treasury pursuant
6 to subsection d. of this section that the provisions of subsection c.
7 of this section have not been met or have been violated by an
8 amendment or supplement to the annual appropriations act, notify
9 each person required to collect tax of the certification and that the
10 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
11 shall no longer be paid or collected.¹
12 (cf: P.L.2018, c.49, s.23)

13

14 ¹16. Section 3 of P.L.2003, c.114 (C.40:48F-1) is amended to
15 read as follows:

16 3. The governing body of a municipality, other than a city of
17 the first class or a city of the second class in which the tax
18 authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a
19 city of the fourth class in which the tax authorized under P.L.1947,
20 c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which
21 the tax and assessment authorized under section 4 of P.L.1992,
22 c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a
23 tax, at a uniform percentage rate not to exceed 1% on charges of
24 rent for every occupancy on or after July 1, 2003 but before July 1,
25 2004, and not to exceed 3% on charges of rent for every occupancy
26 on or after July 1, 2004, of a room or rooms in a hotel or transient
27 accommodation subject to taxation pursuant to subsection (d) of
28 section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted
29 may also require that unpaid taxes under this section shall be
30 subject to interest at the rate of 5% per annum.

31 A tax imposed under this section shall be in addition to any other
32 tax or fee imposed pursuant to statute or local ordinance or
33 resolution by any governmental entity upon the occupancy of a
34 hotel room.

35 A copy of an ordinance adopted pursuant to this section shall be
36 transmitted upon adoption or amendment to the State Treasurer,
37 together with a list of the names and addresses of all of the hotels
38 **[and]** , motels , and transient accommodations located in the
39 municipality. An ordinance so adopted or any amendment thereto
40 shall provide that the tax provisions of the ordinance or any
41 amendment to the tax provisions shall take effect on the first day of
42 the first full month occurring 30 days after the date of transmittal to
43 the State Treasurer for ordinances adopted in calendar year 2003
44 and on the first day of the first full month occurring 90 days after
45 the date of transmittal to the State Treasurer for ordinances adopted
46 in calendar year 2004 and thereafter.

47 A municipality that has adopted an ordinance pursuant to this
48 section shall annually provide to the State Treasurer, not later than

1 January 1 of each year, a list of the names and addresses of all of
2 the hotels **and** , motels , and transient accommodations located in
3 the municipality. A municipality shall also provide to the State
4 Treasurer the name and address of any hotel or motel that
5 commences operation after January 1 of any year.¹

6 (P.L.2018, c.49, s.15)

7

8 ¹**[8.] 17.**¹ This act shall take effect immediately.

9

10

11

12

13 _____
14 Makes transient accommodation taxes and fees only applicable if
15 it is obtained through a marketplace or if it is a professionally
managed unit.

ASSEMBLY, No. 4814

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED DECEMBER 10, 2018

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman R. BRUCE LAND

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Assemblywoman Pinkin

SYNOPSIS

Makes transient accommodation taxes and fees only applicable if rented through marketplace.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2019)

A4814 DOWNEY, HOUGHTALING

2

1 AN ACT concerning transient accommodation taxes and fees,
2 amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to
8 read as follows:

9 84. As used in sections 82 through 85 of P.L.2015, c.19
10 (C.5:10A-82 et seq.):

11 "Commission" means the New Jersey Sports and Exposition
12 Authority, which may be referred to as the "Meadowlands Regional
13 Commission," as established by section 6 of P.L.2015, c.19
14 (C.5:10A-6).

15 "Constituent municipality" means any of the following
16 municipalities: Carlstadt, East Rutherford, Little Ferry, Lyndhurst,
17 Moonachie, North Arlington, Ridgefield, Rutherford, South
18 Hackensack, and Teterboro in Bergen county; and Jersey City,
19 Kearny, North Bergen, and Secaucus in Hudson county.

20 "Meadowlands district" means the Hackensack Meadowlands
21 District, the area delineated within section 5 of P.L.2015, c.19
22 (C.5:10A-5).

23 "Public venue" means any place located within the Meadowlands
24 district, whether publicly or privately owned, where any facilities
25 for entertainment, amusement, or sports are provided, but shall not
26 include a movie theater.

27 "Public event" means any spectator sporting event, trade show,
28 exposition, concert, amusement, or other event open to the public
29 that takes place at a public venue, but shall not include a major
30 league football game.

31 "Residence" means a house, condominium, or other residential
32 dwelling unit in a building or structure or part of a building or
33 structure that is designed, constructed, leased, rented, let or hired
34 out, or otherwise made available for use as a residence.

35 "Transient accommodation" means a room, group of rooms, or
36 other living or sleeping space for the lodging of occupants, if
37 obtained through a transient space marketplace, including but not
38 limited to residences or buildings used as residences. "Transient
39 accommodation" does not include: a hotel or hotel room; a room,
40 group of rooms, or other living or sleeping space used as a place of
41 assembly; a dormitory or other similar residential facility of an
42 elementary or secondary school or a college or university; a
43 hospital, nursing home, or other similar residential facility of a
44 provider of services for the care, support and treatment of
45 individuals that is licensed by the State; a campsite, cabin, lean-to,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or other similar residential facility of a campground or an adult or
2 youth camp; a furnished or unfurnished private residential property,
3 including but not limited to condominiums, bungalows, single-
4 family homes and similar living units, where no maid service, room
5 service, linen changing service or other common hotel services are
6 made available by the lessor and where the keys to the furnished or
7 unfurnished private residential property, whether a physical key,
8 access to a keyless locking mechanism, or other means of physical
9 ingress to the furnished or unfurnished private residential property,
10 are provided to the lessee at the location of an offsite real estate
11 broker licensed by the New Jersey Real Estate Commission
12 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
13 term of at least 90 consecutive days.

14 "Transient space marketplace" means **[an online]** a marketplace
15 through which a person may offer transient accommodations or
16 hotel rooms to individuals. A "transient space marketplace" allows
17 transient accommodations or hotel rooms to be advertised or listed
18 through **[an online]** a marketplace in exchange for consideration
19 **[or]** and provides a means for a customer to arrange for the
20 occupancy of the transient accommodation or hotel room in
21 exchange for consideration. A 'transient space marketplace' shall
22 not include **[an online]** a marketplace operated by or on behalf of a
23 hotel or hotel corporation that facilitates customer occupancy solely
24 for the hotel or hotel corporation's owned or managed hotels and
25 franchisees, and shall not include a travel agency or an online travel
26 agency.

27 (cf: P.L.2018, c.132, s.4)

28

29 2. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
30 read as follows:

31 3. As used in this act:

32 "Authority" means the New Jersey Economic Development
33 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
34 seq.).

35 "Developer" means any person or entity, whether public or
36 private, including a State entity, that proposes to undertake a project
37 pursuant to a development agreement.

38 "District" or "sports and entertainment district" means a
39 geographic area which includes a project as set forth in the
40 ordinance pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

41 "Eligible municipality" means a municipality: (1) in which is
42 located part of an urban enterprise zone that has been designated
43 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
44 supplement thereto; and (2) which has a population greater than
45 25,000 and less than 29,000 according to the latest federal decennial
46 census in a county of the third class with a population density
47 greater than 295 and less than 304 persons per square mile
48 according to the latest federal decennial census.

1 "Infrastructure improvements" means the construction or
2 rehabilitation of any street, highway, utility, transportation or
3 parking facilities, or other similar improvements; the acquisition of
4 any interest in land as necessary or convenient for the acquisition of
5 any right-of-way or other easement for the purpose of constructing
6 infrastructure improvements; the acquisition, construction or
7 reconstruction of land and site improvements, including demolition,
8 clearance, removal, construction, reconstruction, fill, environmental
9 enhancement or abatement, or other site preparation for
10 development of a sports and entertainment district.

11 "Project" means a sports and entertainment facility and may
12 include infrastructure improvements that are associated with the
13 sports and entertainment facility.

14 "Project cost" means the cost of a project, including the
15 financing, acquisition, development, construction, redevelopment,
16 rehabilitation, reconstruction and improvement costs thereof,
17 financing costs and the administrative costs, including any
18 administrative costs of the authority if bonds are issued pursuant to
19 section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in
20 connection with a sports and entertainment facility which is
21 financed, in whole or in part, by the revenues dedicated by a
22 municipality to a project as authorized pursuant to section 5 of
23 P.L.2007, c.30 (C.34:1B-194).

24 "Residence" means a house, condominium, or other residential
25 dwelling unit in a building or structure or part of a building or
26 structure that is designed, constructed, leased, rented, let or hired
27 out, or otherwise made available for use as a residence.

28 "Sports and entertainment facility" means any privately or
29 publicly owned or operated facility located in a sports and
30 entertainment district that is used primarily for sports contests,
31 entertainment, or both, such as a theater, stadium, museum, arena,
32 automobile racetrack, or other place where performances, concerts,
33 exhibits, games or contests are held.

34 "State Treasurer" or "treasurer" means the treasurer of the State
35 of New Jersey.

36 "Transient accommodation" means a room, group of rooms, or
37 other living or sleeping space for the lodging of occupants, if
38 obtained through a transient space marketplace, including but not
39 limited to residences or buildings used as residences. "Transient
40 accommodation" does not include: a hotel or hotel room; a room,
41 group of rooms, or other living or sleeping space used as a place of
42 assembly; a dormitory or other similar residential facility of an
43 elementary or secondary school or a college or university; a
44 hospital, nursing home, or other similar residential facility of a
45 provider of services for the care, support and treatment of
46 individuals that is licensed by the State; a campsite, cabin, lean-to,
47 or other similar residential facility of a campground or an adult or
48 youth camp; a furnished or unfurnished private residential property,

1 including but not limited to condominiums, bungalows, single-
2 family homes and similar living units, where no maid service, room
3 service, linen changing service or other common hotel services are
4 made available by the lessor and where the keys to the furnished or
5 unfurnished private residential property, whether a physical key,
6 access to a keyless locking mechanism, or other means of physical
7 ingress to the furnished or unfurnished private residential property,
8 are provided to the lessee at the location of an offsite real estate
9 broker licensed by the New Jersey Real Estate Commission
10 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
11 term of at least 90 consecutive days.

12 "Transient space marketplace" means **[an online]** a marketplace
13 through which a person may offer transient accommodations or
14 hotel rooms to individuals. A "transient space marketplace" allows
15 transient accommodations or hotel rooms to be advertised or listed
16 through **[an online]** a marketplace in exchange for consideration
17 **[or]** and provides a means for a customer to arrange for the
18 occupancy of the transient accommodation or hotel room in
19 exchange for consideration. A 'transient space marketplace' shall
20 not include **[an online]** a marketplace operated by or on behalf of a
21 hotel or hotel corporation that facilitates customer occupancy solely
22 for the hotel or hotel corporation's owned or managed hotels and
23 franchisees, and shall not include a travel agency or an online travel
24 agency.

25 (cf: P.L.2018, c.132, s.5)

26

27 3. Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended to
28 read as follows:

29 2. As used in this act:

30 "Retail sale" or "sale at retail" means and includes:

31 (1) Any sale in the ordinary course of business for consumption
32 of whiskey, beer or other alcoholic beverages by the drink in
33 restaurants, cafes, bars, hotels and other similar establishments;

34 (2) Any cover charge, minimum charge, entertainment, or other
35 similar charge made to any patron of any restaurant, cafe, bar, hotel
36 or other similar establishment;

37 (3) The hiring, with or without service, of any room in any
38 hotel, transient accommodation, inn, rooming or boarding house;

39 (4) The hiring of any rolling chair, beach chair or cabana; and

40 (5) The granting or sale of any ticket, license or permit for
41 admission to any theatre, moving picture exhibition or show, pier,
42 exhibition, or place of amusement, except charges for admission to
43 boxing, wrestling, kick boxing or combative sports events, matches,
44 or exhibitions, which charges are taxed pursuant to section 20 of
45 P.L.1985, c.83 (C.5:2A-20).

46 "Vendor" means any person selling or hiring property or services
47 to another person upon the receipts from which a tax is imposed.

1 "Purchaser" means any person purchasing or hiring property or
2 services from another person, the receipts from which are taxable.

3 "Residence" means a house, condominium, or other residential
4 dwelling unit in a building or structure or part of a building or
5 structure that is designed, constructed, leased, rented, let or hired
6 out, or otherwise made available for use as a residence.

7 "Transient accommodation" means a room, group of rooms, or
8 other living or sleeping space for the lodging of occupants, if
9 obtained through a transient space marketplace, including but not
10 limited to residences or buildings used as residences. "Transient
11 accommodation" does not include: a hotel or hotel room; a room,
12 group of rooms, or other living or sleeping space used as a place of
13 assembly; a dormitory or other similar residential facility of an
14 elementary or secondary school or a college or university; a
15 hospital, nursing home, or other similar residential facility of a
16 provider of services for the care, support and treatment of
17 individuals that is licensed by the State; a campsite, cabin, lean-to,
18 or other similar residential facility of a campground or an adult or
19 youth camp; a furnished or unfurnished private residential property,
20 including but not limited to condominiums, bungalows, single-
21 family homes and similar living units, where no maid service, room
22 service, linen changing service or other common hotel services are
23 made available by the lessor and where the keys to the furnished or
24 unfurnished private residential property, whether a physical key,
25 access to a keyless locking mechanism, or other means of physical
26 ingress to the furnished or unfurnished private residential property,
27 are provided to the lessee at the location of an offsite real estate
28 broker licensed by the New Jersey Real Estate Commission
29 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
30 term of at least 90 consecutive days.

31 "Transient space marketplace" means **[an online]** a marketplace
32 through which a person may offer transient accommodations or
33 hotel rooms to individuals. A "transient space marketplace" allows
34 transient accommodations or hotel rooms to be advertised or listed
35 through **[an online]** a marketplace in exchange for consideration
36 **[or]** and provides a means for a customer to arrange for the
37 occupancy of the transient accommodation or hotel room in
38 exchange for consideration. A 'transient space marketplace' shall
39 not include **[an online]** a marketplace operated by or on behalf of a
40 hotel or hotel corporation that facilitates customer occupancy solely
41 for the hotel or hotel corporation's owned or managed hotels and
42 franchisees, and shall not include a travel agency or an online travel
43 agency.

44 (cf: P.L.2018, c.132, s.6)

45

46 4. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to
47 read as follows:

48 1. As used in this act:

- 1 a. "Convention center operating authority" means, in the case
2 of any eligible municipality, the public authority or other
3 governmental entity empowered to operate convention hall and the
4 convention center facilities in the eligible municipality.
- 5 b. "Director" means the Director of the Division of Taxation in
6 the Department of the Treasury.
- 7 c. "Eligible municipality" means any municipality in which any
8 portion of the proceeds of a retail sales tax levied by ordinance
9 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
10 (C.40:48-8.15) is applied as authorized by law to the payment of
11 costs of convention center facilities located in the municipality.
- 12 d. "Hotel" means a building or a portion of a building which is
13 regularly used and kept open as such for the lodging of guests.
14 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
15 boarding house or club, whether or not meals are served, but does
16 not include a transient accommodation.
- 17 e. "Occupied room" means a room or rooms of any kind in any
18 part of a hotel or transient accommodation, other than a place of
19 assembly, which is used or possessed by a guest or guests, whether
20 or not for consideration.
- 21 f. "Residence" means a house, condominium, or other
22 residential dwelling unit in a building or structure or part of a
23 building or structure that is designed, constructed, leased, rented, let
24 or hired out, or otherwise made available for use as a residence.
- 25 g. "Transient accommodation" means a room, group of rooms,
26 or other living or sleeping space for the lodging of occupants, if
27 obtained through a transient space marketplace, including but not
28 limited to residences or buildings used as residences. "Transient
29 accommodation" does not include: a hotel or hotel room; a room,
30 group of rooms, or other living or sleeping space used as a place of
31 assembly; a dormitory or other similar residential facility of an
32 elementary or secondary school or a college or university; a
33 hospital, nursing home, or other similar residential facility of a
34 provider of services for the care, support and treatment of
35 individuals that is licensed by the State; a campsite, cabin, lean-to,
36 or other similar residential facility of a campground or an adult or
37 youth camp; a furnished or unfurnished private residential property,
38 including but not limited to condominiums, bungalows, single-
39 family homes and similar living units, where no maid service, room
40 service, linen changing service or other common hotel services are
41 made available by the lessor and where the keys to the furnished or
42 unfurnished private residential property, whether a physical key,
43 access to a keyless locking mechanism, or other means of physical
44 ingress to the furnished or unfurnished private residential property,
45 are provided to the lessee at the location of an offsite real estate
46 broker licensed by the New Jersey Real Estate Commission
47 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
48 term of at least 90 consecutive days.

1 h. "Transient space marketplace" means **[an online]** a
2 marketplace through which a person may offer transient
3 accommodations or hotel rooms to individuals. A "transient space
4 marketplace" allows transient accommodations or hotel rooms to be
5 advertised or listed through **[an online]** a marketplace in exchange
6 for consideration **[or]** and provides a means for a customer to
7 arrange for the occupancy of the transient accommodation or hotel
8 room in exchange for consideration. A 'transient space marketplace'
9 shall not include **[an online]** a marketplace operated by or on
10 behalf of a hotel or hotel corporation that facilitates customer
11 occupancy solely for the hotel or hotel corporation's owned or
12 managed hotels and franchisees, and shall not include a travel
13 agency or an online travel agency.
14 (cf: P.L.2018, c.132, s.7)

15
16 5. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
17 as follows:

18 2. As used in this act "hotel" means a building or portion of a
19 building which is regularly used and kept open as such for the
20 lodging of guests. "Hotel" includes an apartment hotel, a motel, inn,
21 and rooming or boarding house or club, whether or not meals are
22 served, but does not include a transient accommodation.

23 "Residence" means a house, condominium, or other residential
24 dwelling unit in a building or structure or part of a building or
25 structure that is designed, constructed, leased, rented, let or hired
26 out, or otherwise made available for use as a residence.

27 "Transient accommodation" means a room, group of rooms, or
28 other living or sleeping space for the lodging of occupants, if
29 obtained through a transient space marketplace, including but not
30 limited to residences or buildings used as residences. "Transient
31 accommodation" does not include: a hotel or hotel room; a room,
32 group of rooms, or other living or sleeping space used as a place of
33 assembly; a dormitory or other similar residential facility of an
34 elementary or secondary school or a college or university; a
35 hospital, nursing home, or other similar residential facility of a
36 provider of services for the care, support and treatment of
37 individuals that is licensed by the State; a campsite, cabin, lean-to,
38 or other similar residential facility of a campground or an adult or
39 youth camp; a furnished or unfurnished private residential property,
40 including but not limited to condominiums, bungalows, single-
41 family homes and similar living units, where no maid service, room
42 service, linen changing service or other common hotel services are
43 made available by the lessor and where the keys to the furnished or
44 unfurnished private residential property, whether a physical key,
45 access to a keyless locking mechanism, or other means of physical
46 ingress to the furnished or unfurnished private residential property,
47 are provided to the lessee at the location of an offsite real estate
48 broker licensed by the New Jersey Real Estate Commission

1 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
2 term of at least 90 consecutive days.

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6 transient accommodations or hotel rooms to be advertised or listed
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8 **[or]** and provides a means for a customer to arrange for the
9 occupancy of the transient accommodation or hotel room in
10 exchange for consideration. A 'transient space marketplace' shall
11 not include **[an online]** a marketplace operated by or on behalf of a
12 hotel or hotel corporation that facilitates customer occupancy solely
13 for the hotel or hotel corporation's owned or managed hotels and
14 franchisees, and shall not include a travel agency or an online travel
15 agency.

16 (cf: 2018, c.132, s.8)

17

18 6. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to
19 read as follows:

20 3. As used in this act:

21 "Authority" means a tourism improvement and development
22 authority created pursuant to section 18 of this act, P.L.1992, c.165
23 (C.40:54D-18).

24 "Beach operation offset payment " means a payment made by an
25 authority to municipalities in its district for tourism development
26 activities related to operating and maintaining public beaches within
27 a zone to seaward of a line of demarcation located not more than
28 1,000 feet from the mean high water line.

29 "Bond" means any bond or note issued by an authority pursuant
30 to the provisions of this act.

31 "Commissioner" means the Commissioner of the Department of
32 Commerce and Economic Development.

33 "Construction" means the planning, designing, construction,
34 reconstruction, rehabilitation, replacement, repair, extension,
35 enlargement, improvement and betterment of a project, and includes
36 the demolition, clearance and removal of buildings or structures on
37 land acquired, held, leased or used for a project.

38 "Convention center facility" means any convention hall or center
39 or like structure or building, and shall include all facilities,
40 including commercial, office, community service, parking facilities
41 and all property rights, easements and interests, and other facilities
42 constructed for the accommodation and entertainment of tourists
43 and visitors, constructed in conjunction with a convention center
44 facility and forming reasonable appurtenances thereto but does not
45 mean the Wildwood convention center facility as defined in this
46 section.

47 "Tourism project" means the convention center facility or
48 outdoor special events arena, or both, located in the territorial limits

1 of the district, and any costs associated therewith but does not mean
2 the Wildwood convention center facility as defined in this section.

3 "Cost" means all or any part of the expenses incurred in
4 connection with the acquisition, construction and maintenance of
5 any real property, lands, structures, real or personal property rights,
6 rights-of-way, franchises, easements, and interests acquired or used
7 for a project; any financing charges and reserves for the payment of
8 principal and interest on bonds or notes; the expenses of
9 engineering, appraisal, architectural, accounting, financial and legal
10 services; and other expenses as may be necessary or incident to the
11 acquisition, construction and maintenance of a project, the
12 financing thereof and the placing of the project into operation.

13 "County" means a county of the sixth class.

14 "Director" means the Director of the Division of Taxation in the
15 Department of the Treasury.

16 "Fund" means a Reserve Fund created pursuant to section 13 of
17 P.L.1992, c.165 (C.40:54D-13).

18 "Outdoor special events arena" means a facility or structure for
19 the holding outdoors of public events, entertainments, sporting
20 events, concerts or similar activities, and shall include all facilities,
21 property rights and interests, and all appurtenances reasonably
22 related thereto, constructed for the accommodation and
23 entertainment of tourists and visitors.

24 "Participant amusement" means a sporting activity or amusement
25 the charge for which is exempt from taxation under the "Sales and
26 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the
27 participation of the patron in the activity or amusement, such as
28 bowling alleys, swimming pools, water slides, miniature golf,
29 boardwalk or carnival games and amusements, baseball batting
30 cages, tennis courts, and fishing and sightseeing boats.

31 "Predominantly tourism related retail receipts" means:

32 a. The rent for every occupancy of a room or rooms in a hotel
33 or transient accommodation subject to taxation pursuant to
34 subsection (d) of section 3 of the "Sales and Use Tax Act,"
35 P.L.1966, c.30 (C.54:32B-3);

36 b. Receipts from the sale of food and drink in or by restaurants,
37 taverns, or other establishments in the district, or by caterers,
38 including in the amount of such receipt any cover, minimum,
39 entertainment or other charge made to patrons or customers, subject
40 to taxation pursuant to subsection (c) of section 3 of the "Sales and
41 Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts
42 from sales of food and beverages sold through coin operated
43 vending machines; and

44 c. Admissions charges to or the use of any place of amusement
45 or of any roof garden, cabaret or similar place, subject to taxation
46 pursuant to subsection (e) of section 3 of the "Sales and Use Tax
47 Act," P.L.1966, c.30 (C.54:32B-3).

1 "Purchaser" means any person purchasing or hiring property or
2 services from another person, the receipts or charges from which
3 are taxable by an ordinance authorized under P.L.1992, c.165
4 (C.40:54D-1 et seq.).

5 "Residence" means a house, condominium, or other residential
6 dwelling unit in a building or structure or part of a building or
7 structure that is designed, constructed, leased, rented, let or hired
8 out, or otherwise made available for use as a residence.

9 "Sports authority" means the New Jersey Sports and Exposition
10 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et
11 seq.).

12 "Tourism" means activities involved in providing and marketing
13 services and products, including accommodations, for nonresidents
14 and residents who travel to and in New Jersey for recreation and
15 pleasure.

16 "Tourism assessment" means an assessment on the rent for every
17 occupancy of a room or rooms in a hotel or transient
18 accommodation subject to taxation pursuant to subsection (d) of
19 section 3 of the "Sales and Use Tax Act," P.L.1966, c.30
20 (C.54:32B-3).

21 "Tourism development activities" include operations of the
22 authority to carry out its statutory duty to promote, advertise and
23 market the district, including making beach operation offset
24 payments.

25 "Tourism development fee" means a fee imposed by ordinance
26 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

27 "Tourism improvement and development district" or "district"
28 means an area within two or more contiguous municipalities within
29 a county of the sixth class established pursuant to ordinance enacted
30 by those municipalities, for the purposes of promoting the
31 acquisition, construction, maintenance, operation and support of a
32 tourism project, and to devote the revenue and the proceeds from
33 taxes upon predominantly tourism related retail receipts and from
34 tourism development fees to the purposes as herein defined.

35 "Tourist industry" means the industry consisting of private and
36 public organizations which directly or indirectly provide services
37 and products to nonresidents and residents who travel to and in New
38 Jersey for recreation and pleasure.

39 "Tourism lodging" means any dwelling unit, other than a
40 dwelling unit in a hotel the rent for which is subject to taxation
41 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et
42 seq.), regardless of the form of ownership of the unit, rented with or
43 without a lease, whether rented by the owner or by an agent for the
44 owner.

45 "Transient accommodation" means a room, group of rooms, or
46 other living or sleeping space for the lodging of occupants, if
47 obtained through a transient space marketplace, including but not
48 limited to residences or buildings used as residences. "Transient

1 accommodation" does not include: a hotel or hotel room; a room,
2 group of rooms, or other living or sleeping space used as a place of
3 assembly; a dormitory or other similar residential facility of an
4 elementary or secondary school or a college or university; a
5 hospital, nursing home, or other similar residential facility of a
6 provider of services for the care, support and treatment of
7 individuals that is licensed by the State; a campsite, cabin, lean-to,
8 or other similar residential facility of a campground or an adult or
9 youth camp; a furnished or unfurnished private residential property,
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11 family homes and similar living units, where no maid service, room
12 service, linen changing service or other common hotel services are
13 made available by the lessor and where the keys to the furnished or
14 unfurnished private residential property, whether a physical key,
15 access to a keyless locking mechanism, or other means of physical
16 ingress to the furnished or unfurnished private residential property,
17 are provided to the lessee at the location of an offsite real estate
18 broker licensed by the New Jersey Real Estate Commission
19 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
20 term of at least 90 consecutive days.

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27 occupancy of the transient accommodation or hotel room in
28 exchange for consideration. A 'transient space marketplace' shall
29 not include **[an online]** a marketplace operated by or on behalf of a
30 hotel or hotel corporation that facilitates customer occupancy solely
31 for the hotel or hotel corporation's owned or managed hotels and
32 franchisees, and shall not include a travel agency or an online travel
33 agency.

34 "Vendor" means a person selling or hiring property or services to
35 another person, the receipts or charges from which are taxable by an
36 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

37 "Wildwood convention center facility" means the project
38 authorized by paragraph (12) of subsection a. of section 6 of
39 P.L.1971, c.137 (C.5:10-6).
40 (cf: P.L.2018, c.132, s.9)

41

42 7. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read
43 as follows:

44 2. Unless the context in which they occur requires otherwise,
45 the following terms when used in this act shall mean:

46 (a) "Person" includes an individual, trust, partnership, limited
47 partnership, limited liability company, society, association, joint
48 stock company, corporation, public corporation or public authority,

1 estate, receiver, trustee, assignee, referee, fiduciary and any other
2 legal entity.

3 (b) "Purchase at retail" means a purchase by any person at a
4 retail sale.

5 (c) "Purchaser" means a person to whom a sale of personal
6 property is made or to whom a service is furnished.

7 (d) "Receipt" means the amount of the sales price of any
8 tangible personal property, specified digital product or service
9 taxable under this act.

10 (e) "Retail sale" means any sale, lease, or rental for any purpose,
11 other than for resale, sublease, or subrent.

12 (1) For the purposes of this act a sale is for "resale, sublease, or
13 subrent" if it is a sale (A) for resale either as such or as converted
14 into or as a component part of a product produced for sale by the
15 purchaser, including the conversion of natural gas into another
16 intermediate or end product, other than electricity or thermal
17 energy, produced for sale by the purchaser, (B) for use by that
18 person in performing the services subject to tax under subsection
19 (b) of section 3 where the property so sold becomes a physical
20 component part of the property upon which the services are
21 performed or where the property so sold is later actually transferred
22 to the purchaser of the service in conjunction with the performance
23 of the service subject to tax, (C) of telecommunications service to a
24 telecommunications service provider for use as a component part of
25 telecommunications service provided to an ultimate customer, or
26 (D) to a person who receives by contract a product transferred
27 electronically for further commercial broadcast, rebroadcast,
28 transmission, retransmission, licensing, relicensing, distribution,
29 redistribution or exhibition of the product, in whole or in part, to
30 another person, other than rights to redistribute based on statutory
31 or common law doctrine such as fair use.

32 (2) For the purposes of this act, the term "retail sale" includes:
33 sales of tangible personal property to all contractors, subcontractors
34 or repairmen of materials and supplies for use by them in erecting
35 structures for others, or building on, or otherwise improving,
36 altering, or repairing real property of others.

37 (3) (Deleted by amendment, P.L.2005, c.126).

38 (4) The term "retail sale" does not include:

39 (A) Professional, insurance, or personal service transactions
40 which involve the transfer of tangible personal property as an
41 inconsequential element, for which no separate charges are made.

42 (B) The transfer of tangible personal property to a corporation,
43 solely in consideration for the issuance of its stock, pursuant to a
44 merger or consolidation effected under the laws of New Jersey or
45 any other jurisdiction.

46 (C) The distribution of property by a corporation to its
47 stockholders as a liquidating dividend.

- 1 (D) The distribution of property by a partnership to its partners
2 in whole or partial liquidation.
- 3 (E) The transfer of property to a corporation upon its
4 organization in consideration for the issuance of its stock.
- 5 (F) The contribution of property to a partnership in
6 consideration for a partnership interest therein.
- 7 (G) The sale of tangible personal property where the purpose of
8 the vendee is to hold the thing transferred as security for the
9 performance of an obligation of the seller.
- 10 (f) "Sale, selling or purchase" means any transfer of title or
11 possession or both, exchange or barter, rental, lease or license to
12 use or consume, conditional or otherwise, in any manner or by any
13 means whatsoever for a consideration, or any agreement therefor,
14 including the rendering of any service, taxable under this act, for a
15 consideration or any agreement therefor.
- 16 (g) "Tangible personal property" means personal property that
17 can be seen, weighed, measured, felt, or touched, or that is in any
18 other manner perceptible to the senses. "Tangible personal
19 property" includes electricity, water, gas, steam, and prewritten
20 computer software including prewritten computer software
21 delivered electronically.
- 22 (h) "Use" means the exercise of any right or power over tangible
23 personal property, specified digital products, services to property or
24 products, or services by the purchaser thereof and includes, but is
25 not limited to, the receiving, storage or any keeping or retention for
26 any length of time, withdrawal from storage, any distribution, any
27 installation, any affixation to real or personal property, or any
28 consumption of such property or products. Use also includes the
29 exercise of any right or power over intrastate or interstate
30 telecommunications and prepaid calling services. Use also includes
31 the exercise of any right or power over utility service. Use also
32 includes the derivation of a direct or indirect benefit from a service.
- 33 (i) "Seller" means a person making sales, leases or rentals of
34 personal property or services.
- 35 (1) The term "seller" includes:
- 36 (A) A person making sales, leases or rentals of tangible personal
37 property, specified digital products or services, the receipts from
38 which are taxed by this act;
- 39 (B) A person maintaining a place of business in the State or
40 having an agent maintaining a place of business in the State and
41 making sales, whether at such place of business or elsewhere, to
42 persons within the State of tangible personal property, specified
43 digital products or services, the use of which is taxed by this act;
- 44 (C) A person who solicits business either by employees,
45 independent contractors, agents or other representatives or by
46 distribution of catalogs or other advertising matter and by reason
47 thereof makes sales to persons within the State of tangible personal

1 property, specified digital products or services, the use of which is
2 taxed by this act.

3 A person making sales of tangible personal property, specified
4 digital products, or services taxable under the "Sales and Use Tax
5 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
6 soliciting business through an independent contractor or other
7 representative if the person making sales enters into an agreement
8 with an independent contractor having physical presence in this
9 State or other representative having physical presence in this State,
10 for a commission or other consideration, under which the
11 independent contractor or representative directly or indirectly refers
12 potential customers, whether by a link on an internet website or
13 otherwise, and the cumulative gross receipts from sales to
14 customers in this State who were referred by all independent
15 contractors or representatives that have this type of an agreement
16 with the person making sales are in excess of \$10,000 during the
17 preceding four quarterly periods ending on the last day of March,
18 June, September, and December. This presumption may be rebutted
19 by proof that the independent contractor or representative with
20 whom the person making sales has an agreement did not engage in
21 any solicitation in the State on behalf of the person that would
22 satisfy the nexus requirements of the United States Constitution
23 during the four quarterly periods in question. Nothing in this
24 subparagraph shall be construed to narrow the scope of the terms
25 independent contractor or other representative for purposes of any
26 other provision of the "Sales and Use Tax Act," P.L.1966, c.30
27 (C.54:32B-1 et seq.);

28 (D) Any other person making sales to persons within the State of
29 tangible personal property, specified digital products or services,
30 the use of which is taxed by this act, who may be authorized by the
31 director to collect the tax imposed by this act;

32 (E) The State of New Jersey, any of its agencies,
33 instrumentalities, public authorities, public corporations (including
34 a public corporation created pursuant to agreement or compact with
35 another state) or political subdivisions when such entity sells
36 services or property of a kind ordinarily sold by private persons;

37 (F) (Deleted by amendment, P.L.2005, c.126);

38 (G) A person who sells, stores, delivers or transports energy to
39 users or customers in this State whether by mains, lines or pipes
40 located within this State or by any other means of delivery;

41 (H) A person engaged in collecting charges in the nature of
42 initiation fees, membership fees or dues for access to or use of the
43 property or facilities of a health and fitness, athletic, sporting or
44 shopping club or organization;

45 (I) A person engaged in the business of parking, storing or
46 garaging motor vehicles;

47 (J) A person making sales, leases, or rentals of tangible personal
48 property, specified digital products, or taxable services who meets

1 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,
2 c.132 (C.54:32B-3.5); and

3 (K) A marketplace facilitator.

4 (2) In addition, when in the opinion of the director it is
5 necessary for the efficient administration of this act to treat any
6 salesman, representative, peddler or canvasser as the agent of the
7 seller, distributor, supervisor or employer under whom the agent
8 operates or from whom the agent obtains tangible personal property
9 or a specified digital product sold by the agent or for whom the
10 agent solicits business, the director may, in the director's discretion,
11 treat such agent as the seller jointly responsible with the agent's
12 principal, distributor, supervisor or employer for the collection and
13 payment over of the tax. A person is an agent of a seller in all
14 cases, but not limited to such cases, that: (A) the person and the
15 seller have the relationship of a "related person" described pursuant
16 to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller
17 and the person use an identical or substantially similar name,
18 tradename, trademark, or goodwill, to develop, promote, or
19 maintain sales, or the person and the seller pay for each other's
20 services in whole or in part contingent upon the volume or value of
21 sales, or the person and the seller share a common business plan or
22 substantially coordinate their business plans, or the person provides
23 services to, or that inure to the benefit of, the seller related to
24 developing, promoting, or maintaining the seller's market.

25 (3) Notwithstanding any other provision of law or
26 administrative action to the contrary, transient space marketplaces
27 shall be required to collect and pay on behalf of persons engaged in
28 the business of providing transient accommodations or hotel rooms
29 located in this State the tax for transactions solely consummated
30 through the transient space marketplace. For not less than four years
31 following the end of the calendar year in which the transaction
32 occurred, the transient space marketplace shall maintain the
33 following data for those transactions consummated through the
34 transient space marketplace:

35 (A) The name of the person who provided the transient
36 accommodation or hotel room;

37 (B) The name of the customer who procured occupancy of the
38 transient accommodation or hotel room;

39 (C) The address, including any unit designation, of the transient
40 accommodation or hotel room;

41 (D) The dates and nightly rates for which the consumer procured
42 occupancy of the transient accommodation or hotel room;

43 (E) The municipal transient accommodation registration number,
44 if applicable;

45 (F) A statement as to whether such booking services will be
46 provided in connection with (i) short-term rental of the entirety of
47 such unit, (ii) short-term rental of part of such unit, but not the
48 entirety of such unit, and/or (iii) short-term rental of the entirety of

1 such unit, or part thereof, in which a non-short-term occupant will
2 continue to occupy such unit for the duration of such short-term
3 rental;

4 (G) The individualized name or number of each such
5 advertisement or listing connected to such unit and the uniform
6 resource locator (URL) for each such listing or advertisement,
7 where applicable; and

8 (H) Such other information as the Division of Taxation may by
9 rule require.

10 The Division of Taxation may audit transient space marketplaces
11 as necessary to ensure data accuracy and enforce tax compliance.

12 (j) "Hotel" means a building or portion of a building which is
13 regularly used and kept open as such for the lodging of guests.
14 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
15 boarding house or club, whether or not meals are served, but does
16 not include a transient accommodation.

17 (k) "Occupancy" means the use or possession or the right to the
18 use or possession, of any room in a hotel or transient
19 accommodation.

20 (l) "Occupant" means a person who, for a consideration, uses,
21 possesses, or has the right to use or possess, any room in a hotel or
22 transient accommodation under any lease, concession, permit, right
23 of access, license to use or other agreement, or otherwise.

24 (m) "Permanent resident" means any occupant of any room or
25 rooms in a hotel or transient accommodation for at least 90
26 consecutive days shall be considered a permanent resident with
27 regard to the period of such occupancy.

28 (n) "Room" means any room or rooms of any kind in any part or
29 portion of a hotel or transient accommodation, which is available
30 for or let out for any purpose other than a place of assembly.

31 (o) "Admission charge" means the amount paid for admission,
32 including any service charge and any charge for entertainment or
33 amusement or for the use of facilities therefor.

34 (p) "Amusement charge" means any admission charge, dues or
35 charge of a roof garden, cabaret or other similar place.

36 (q) "Charge of a roof garden, cabaret or other similar place"
37 means any charge made for admission, refreshment, service, or
38 merchandise at a roof garden, cabaret or other similar place.

39 (r) "Dramatic or musical arts admission charge" means any
40 admission charge paid for admission to a theater, opera house,
41 concert hall or other hall or place of assembly for a live, dramatic,
42 choreographic or musical performance.

43 (s) "Lessor" means any person who is the owner, licensee, or
44 lessee of any premises, tangible personal property or a specified
45 digital product which the person leases, subleases, or grants a
46 license to use to other persons.

47 (t) "Place of amusement" means any place where any facilities
48 for entertainment, amusement, or sports are provided.

1 (u) "Casual sale" means an isolated or occasional sale of an item
2 of tangible personal property or a specified digital product by a
3 person who is not regularly engaged in the business of making retail
4 sales of such property or product where the item of tangible
5 personal property or the specified digital product was obtained by
6 the person making the sale, through purchase or otherwise, for the
7 person's own use.

8 (v) "Motor vehicle" includes all vehicles propelled otherwise
9 than by muscular power (excepting such vehicles as run only upon
10 rails or tracks), trailers, semitrailers, house trailers, or any other
11 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
12 designed for operation on the public highways.

13 (w) "Persons required to collect tax" or "persons required to
14 collect any tax imposed by this act" includes: every seller of
15 tangible personal property, specified digital products or services;
16 every recipient of amusement charges; every operator of a hotel or
17 transient accommodation; every transient space marketplace; every
18 marketplace facilitator; every seller of a telecommunications
19 service; every recipient of initiation fees, membership fees or dues
20 for access to or use of the property or facilities of a health and
21 fitness, athletic, sporting or shopping club or organization; and
22 every recipient of charges for parking, storing or garaging a motor
23 vehicle. Said terms shall also include any officer or employee of a
24 corporation or of a dissolved corporation who as such officer or
25 employee is under a duty to act for such corporation in complying
26 with any requirement of this act and any member of a partnership.

27 (x) "Customer" includes: every purchaser of tangible personal
28 property, specified digital products or services; every patron paying
29 or liable for the payment of any amusement charge; every occupant
30 of a room or rooms in a hotel or transient accommodation; every
31 person paying charges in the nature of initiation fees, membership
32 fees or dues for access to or use of the property or facilities of a
33 health and fitness, athletic, sporting or shopping club or
34 organization; and every purchaser of parking, storage or garaging a
35 motor vehicle.

36 (y) "Property and services the use of which is subject to tax"
37 includes: (1) all property sold to a person within the State, whether
38 or not the sale is made within the State, the use of which property is
39 subject to tax under section 6 or will become subject to tax when
40 such property is received by or comes into the possession or control
41 of such person within the State; (2) all services rendered to a person
42 within the State, whether or not such services are performed within
43 the State, upon tangible personal property or a specified digital
44 product the use of which is subject to tax under section 6 or will
45 become subject to tax when such property or product is distributed
46 within the State or is received by or comes into possession or
47 control of such person within the State; (3) intrastate, interstate, or
48 international telecommunications sourced to this State pursuant to

1 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
2 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
3 delivered in this State for use in this State; (6) utility service sold,
4 exchanged or delivered in this State for use in this State; (7) mail
5 processing services in connection with printed advertising material
6 distributed in this State; (8) (Deleted by amendment, P.L.2005,
7 c.126); and (9) services the benefit of which are received in this
8 State.

9 (z) "Director" means the Director of the Division of Taxation in
10 the State Department of the Treasury, or any officer, employee or
11 agency of the Division of Taxation in the Department of the
12 Treasury duly authorized by the director (directly, or indirectly by
13 one or more redelegations of authority) to perform the functions
14 mentioned or described in this act.

15 (aa) "Lease or rental" means any transfer of possession or control
16 of tangible personal property for a fixed or indeterminate term for
17 consideration. A "lease or rental" may include future options to
18 purchase or extend.

19 (1) "Lease or rental" does not include:

20 (A) A transfer of possession or control of property under a
21 security agreement or deferred payment plan that requires the
22 transfer of title upon completion of the required payments;

23 (B) A transfer of possession or control of property under an
24 agreement that requires the transfer of title upon completion of
25 required payments and payment of an option price does not exceed
26 the greater of \$100 or one percent of the total required payments; or

27 (C) Providing tangible personal property or a specified digital
28 product along with an operator for a fixed or indeterminate period
29 of time. A condition of this exclusion is that the operator is
30 necessary for the equipment to perform as designed. For the
31 purpose of this subparagraph, an operator must do more than
32 maintain, inspect, or set-up the tangible personal property or
33 specified digital product.

34 (2) "Lease or rental" does include agreements covering motor
35 vehicles and trailers where the amount of consideration may be
36 increased or decreased by reference to the amount realized upon
37 sale or disposition of the property as defined in 26 U.S.C.
38 s.7701(h)(1).

39 (3) The definition of "lease or rental" provided in this subsection
40 shall be used for the purposes of this act regardless of whether a
41 transaction is characterized as a lease or rental under generally
42 accepted accounting principles, the federal Internal Revenue Code
43 or other provisions of federal, state or local law.

44 (bb) (Deleted by amendment, P.L.2005, c.126).

45 (cc) "Telecommunications service" means the electronic
46 transmission, conveyance, or routing of voice, data, audio, video, or
47 any other information or signals to a point, or between or among
48 points.

1 "Telecommunications service" shall include such transmission,
2 conveyance, or routing in which computer processing applications
3 are used to act on the form, code, or protocol of the content for
4 purposes of transmission, conveyance, or routing without regard to
5 whether such service is referred to as voice over Internet protocol
6 services or is classified by the Federal Communications
7 Commission as enhanced or value added.

8 "Telecommunications service" shall not include:

9 (1) (Deleted by amendment, P.L.2008, c.123);

10 (2) (Deleted by amendment, P.L.2008, c.123);

11 (3) (Deleted by amendment, P.L.2008, c.123);

12 (4) (Deleted by amendment, P.L.2008, c.123);

13 (5) (Deleted by amendment, P.L.2008, c.123);

14 (6) (Deleted by amendment, P.L.2008, c.123);

15 (7) data processing and information services that allow data to
16 be generated, acquired, stored, processed, or retrieved and delivered
17 by an electronic transmission to a purchaser where such purchaser's
18 primary purpose for the underlying transaction is the processed data
19 or information;

20 (8) installation or maintenance of wiring or equipment on a
21 customer's premises;

22 (9) tangible personal property;

23 (10) advertising, including but not limited to directory
24 advertising;

25 (11) billing and collection services provided to third parties;

26 (12) internet access service;

27 (13) radio and television audio and video programming services,
28 regardless of the medium, including the furnishing of transmission,
29 conveyance, and routing of such services by the programming
30 service provider. Radio and television audio and video
31 programming services shall include but not be limited to cable
32 service as defined in section 47 U.S.C. s.522(6) and audio and video
33 programming services delivered by commercial mobile radio
34 service providers, as defined in section 47 C.F.R. 20.3;

35 (14) ancillary services; or

36 (15) digital products delivered electronically, including but not
37 limited to software, music, video, reading materials, or ringtones.

38 For the purposes of this subsection:

39 "ancillary service" means a service that is associated with or
40 incidental to the provision of telecommunications services,
41 including but not limited to detailed telecommunications billing,
42 directory assistance, vertical service, and voice mail service;
43 "conference bridging service" means an ancillary service that links
44 two or more participants of an audio or video conference call and
45 may include the provision of a telephone number. Conference
46 bridging service does not include the telecommunications services
47 used to reach the conference bridge;

1 "detailed telecommunications billing service" means an ancillary
2 service of separately stating information pertaining to individual
3 calls on a customer's billing statement;

4 "directory assistance" means an ancillary service of providing
5 telephone number information or address information or both;

6 "vertical service" means an ancillary service that is offered in
7 connection with one or more telecommunications services, which
8 offers advanced calling features that allow customers to identify
9 callers and to manage multiple calls and call connections, including
10 conference bridging services; and

11 "voice mail service" means an ancillary service that enables the
12 customer to store, send, or receive recorded messages. Voice mail
13 service does not include any vertical service that a customer may be
14 required to have to utilize the voice mail service.

15 (dd) (1) "Intrastate telecommunications" means a
16 telecommunications service that originates in one United States
17 state or a United States territory or possession or federal district,
18 and terminates in the same United States state or United States
19 territory or possession or federal district.

20 (2) "Interstate telecommunications" means a
21 telecommunications service that originates in one United States
22 state or a United States territory or possession or federal district,
23 and terminates in a different United States state or United States
24 territory or possession or federal district.

25 (3) "International telecommunications" means a
26 telecommunications service that originates or terminates in the
27 United States and terminates or originates outside the United States,
28 respectively. "United States" includes the District of Columbia or a
29 United States territory or possession.

30 (ee) (Deleted by amendment, P.L.2008, c.123)

31 (ff) "Natural gas" means any gaseous fuel distributed through a
32 pipeline system.

33 (gg) "Energy" means natural gas or electricity.

34 (hh) "Utility service" means the transportation or transmission of
35 natural gas or electricity by means of mains, wires, lines or pipes, to
36 users or customers.

37 (ii) "Self-generation unit" means a facility located on the user's
38 property, or on property purchased or leased from the user by the
39 person owning the self-generation unit and such property is
40 contiguous to the user's property, which generates electricity to be
41 used only by that user on the user's property and is not transported
42 to the user over wires that cross a property line or public
43 thoroughfare unless the property line or public thoroughfare merely
44 bifurcates the user's or self-generation unit owner's otherwise
45 contiguous property.

46 (jj) "Co-generation facility" means a facility the primary
47 purpose of which is the sequential production of electricity and
48 steam or other forms of useful energy which are used for industrial

1 or commercial heating or cooling purposes and which is designated
2 by the Federal Energy Regulatory Commission, or its successor, as
3 a "qualifying facility" pursuant to the provisions of the "Public
4 Utility Regulatory Policies Act of 1978," Pub.L.95-617.

5 (kk) "Non-utility" means a company engaged in the sale,
6 exchange or transfer of natural gas that was not subject to the
7 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to
8 December 31, 1997.

9 (ll) "Pre-paid calling service" means the right to access
10 exclusively telecommunications services, which shall be paid for in
11 advance and which enables the origination of calls using an access
12 number or authorization code, whether manually or electronically
13 dialed, and that is sold in predetermined units or dollars of which
14 the number declines with use in a known amount.

15 (mm) "Mobile telecommunications service" means the same as
16 that term is defined in the federal "Mobile Telecommunications
17 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

18 (nn) (Deleted by amendment, P.L.2008, c.123)

19 (oo) (1) "Sales price" is the measure subject to sales tax and
20 means the total amount of consideration, including cash, credit,
21 property, and services, for which personal property or services are
22 sold, leased, or rented, valued in money, whether received in money
23 or otherwise, without any deduction for the following:

24 (A) The seller's cost of the property sold;

25 (B) The cost of materials used, labor or service cost, interest,
26 losses, all costs of transportation to the seller, all taxes imposed on
27 the seller, and any other expense of the seller;

28 (C) Charges by the seller for any services necessary to complete
29 the sale;

30 (D) Delivery charges;

31 (E) (Deleted by amendment, P.L.2011, c.49); and

32 (F) (Deleted by amendment, P.L.2008, c.123).

33 (2) "Sales price" does not include:

34 (A) Discounts, including cash, term, or coupons that are not
35 reimbursed by a third party, that are allowed by a seller and taken
36 by a purchaser on a sale;

37 (B) Interest, financing, and carrying charges from credit
38 extended on the sale of personal property or services, if the amount
39 is separately stated on the invoice, bill of sale, or similar document
40 given to the purchaser;

41 (C) Any taxes legally imposed directly on the consumer that are
42 separately stated on the invoice, bill of sale, or similar document
43 given to the purchaser;

44 (D) The amount of sales price for which food stamps have been
45 properly tendered in full or part payment pursuant to the federal
46 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

47 (E) Credit for any trade-in of property of the same kind accepted
48 in part payment and intended for resale if the amount is separately

1 stated on the invoice, bill of sale, or similar document given to the
2 purchaser.

3 (3) "Sales price" includes consideration received by the seller
4 from third parties if:

5 (A) The seller actually receives consideration from a party other
6 than the purchaser and the consideration is directly related to a price
7 reduction or discount on the sale;

8 (B) The seller has an obligation to pass the price reduction or
9 discount through to the purchaser;

10 (C) The amount of the consideration attributable to the sale is
11 fixed and determinable by the seller at the time of the sale of the
12 item to the purchaser; and

13 (D) One of the following criteria is met:

14 (i) the purchaser presents a coupon, certificate, or other
15 documentation to the seller to claim a price reduction or discount
16 where the coupon, certificate, or documentation is authorized,
17 distributed, or granted by a third party with the understanding that
18 the third party will reimburse any seller to whom the coupon,
19 certificate, or documentation is presented;

20 (ii) the purchaser identifies himself to the seller as a member of
21 a group or organization entitled to a price reduction or discount;
22 provided however, that a preferred customer card that is available to
23 any patron does not constitute membership in such a group; or

24 (iii) the price reduction or discount is identified as a third party
25 price reduction or discount on the invoice received by the purchaser
26 or on a coupon, certificate, or other documentation presented by the
27 purchaser.

28 (4) In the case of a bundled transaction that includes a
29 telecommunications service, an ancillary service, internet access, or
30 an audio or video programming service, if the price is attributable to
31 products that are taxable and products that are nontaxable, the
32 portion of the price attributable to the nontaxable products is
33 subject to tax unless the provider can identify by reasonable and
34 verifiable standards such portion from its books and records that are
35 kept in the regular course of business for other purposes, including
36 non-tax purposes.

37 (pp) "Purchase price" means the measure subject to use tax and
38 has the same meaning as "sales price."

39 (qq) "Sales tax" means the tax imposed on certain transactions
40 pursuant to the provisions of the "Sales and Use Tax Act,"
41 P.L.1966, c.30 (C.54:32B-1 et seq.).

42 (rr) "Delivery charges" means charges by the seller for
43 preparation and delivery to a location designated by the purchaser
44 of personal property or services including, but not limited to,
45 transportation, shipping, postage, handling, crating, and packing. If
46 a shipment includes both exempt and taxable property, the seller
47 should allocate the delivery charge by using: (1) a percentage based
48 on the total sales price of the taxable property compared to the total

1 sales price of all property in the shipment; or (2) a percentage based
2 on the total weight of the taxable property compared to the total
3 weight of all property in the shipment. The seller shall tax the
4 percentage of the delivery charge allocated to the taxable property
5 but is not required to tax the percentage allocated to the exempt
6 property.

7 (ss) "Direct mail" means printed material delivered or distributed
8 by United States mail or other delivery service to a mass audience
9 or to addresses on a mailing list provided by the purchaser or at the
10 direction of the purchaser in cases in which the cost of the items are
11 not billed directly to the recipients. "Direct mail" includes tangible
12 personal property supplied directly or indirectly by the purchaser to
13 the direct mail seller for inclusion in the package containing the
14 printed material. "Direct mail" does not include multiple items of
15 printed material delivered to a single address.

16 (tt) "Streamlined Sales and Use Tax Agreement" means the
17 agreement entered into as governed and authorized by the "Uniform
18 Sales and Use Tax Administration Act," P.L.2001, c.431
19 (C.54:32B-44 et seq.).

20 (uu) "Alcoholic beverages" means beverages that are suitable for
21 human consumption and contain one-half of one percent or more of
22 alcohol by volume.

23 (vv) (Deleted by amendment, P.L.2011, c.49)

24 (ww) "Landscaping services" means services that result in a
25 capital improvement to land other than structures of any kind
26 whatsoever, such as: seeding, sodding or grass plugging of new
27 lawns; planting trees, shrubs, hedges, plants; and clearing and
28 filling land.

29 (xx) "Investigation and security services" means:

30 (1) investigation and detective services, including detective
31 agencies and private investigators, and fingerprint, polygraph,
32 missing person tracing and skip tracing services;

33 (2) security guard and patrol services, including bodyguard and
34 personal protection, guard dog, guard, patrol, and security services;

35 (3) armored car services; and

36 (4) security systems services, including security, burglar, and
37 fire alarm installation, repair or monitoring services.

38 (yy) "Information services" means the furnishing of information
39 of any kind, which has been collected, compiled, or analyzed by the
40 seller, and provided through any means or method, other than
41 personal or individual information which is not incorporated into
42 reports furnished to other people.

43 (zz) "Specified digital product" means an electronically
44 transferred digital audio-visual work, digital audio work, or digital
45 book; provided however, that a digital code which provides a
46 purchaser with a right to obtain the product shall be treated in the
47 same manner as a specified digital product.

1 (aaa) "Digital audio-visual work" means a series of related
2 images which, when shown in succession, impart an impression of
3 motion, together with accompanying sounds, if any.

4 (bbb) "Digital audio work" means a work that results from the
5 fixation of a series of musical, spoken, or other sounds, including a
6 ringtone.

7 (ccc) "Digital book" means a work that is generally recognized in
8 the ordinary and usual sense as a book.

9 (ddd) "Transferred electronically" means obtained by the
10 purchaser by means other than tangible storage media.

11 (eee) "Ringtone" means a digitized sound file that is downloaded
12 onto a device and that may be used to alert the purchaser with
13 respect to a communication.

14 (fff) "Residence" means a house, condominium, or other
15 residential dwelling unit in a building or structure or part of a
16 building or structure that is designed, constructed, leased, rented, let
17 or hired out, or otherwise made available for use as a residence.

18 (ggg) "Transient accommodation" means a room, group of
19 rooms, or other living or sleeping space for the lodging of
20 occupants, if obtained through a transient space marketplace,
21 including but not limited to residences or buildings used as
22 residences. "Transient accommodation" does not include: a hotel or
23 hotel room; a room, group of rooms, or other living or sleeping
24 space used as a place of assembly; a dormitory or other similar
25 residential facility of an elementary or secondary school or a
26 college or university; a hospital, nursing home, or other similar
27 residential facility of a provider of services for the care, support and
28 treatment of individuals that is licensed by the State; a campsite,
29 cabin, lean-to, or other similar residential facility of a campground
30 or an adult or youth camp; a furnished or unfurnished private
31 residential property, including but not limited to condominiums,
32 bungalows, single-family homes and similar living units, where no
33 maid service, room service, linen changing service or other
34 common hotel services are made available by the lessor and where
35 the keys to the furnished or unfurnished private residential property,
36 whether a physical key, access to a keyless locking mechanism, or
37 other means of physical ingress to the furnished or unfurnished
38 private residential property, are provided to the lessee at the
39 location of an offsite real estate broker licensed by the New Jersey
40 Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases
41 of real property with a term of at least 90 consecutive days.

42 (hhh) "Transient space marketplace" means **【an online】** a
43 marketplace through which a person may offer transient
44 accommodations or hotel rooms to individuals. A "transient space
45 marketplace" allows transient accommodations or hotel rooms to be
46 advertised or listed through **【an online】** a marketplace in exchange
47 for consideration **【or】** and provides a means for a customer to
48 arrange for the occupancy of the transient accommodation or hotel

1 room in exchange for consideration. A 'transient space marketplace'
2 shall not include **[an online]** a marketplace operated by or on
3 behalf of a hotel or hotel corporation that facilitates customer
4 occupancy solely for the hotel or hotel corporation's owned or
5 managed hotels and franchisees, and shall not include a travel
6 agency or an online travel agency.
7 (cf: P.L.2018, c.132, s.3)

8

9 8. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill amends the definition of “transient accommodation”
15 and “transient space marketplace” as they relate to the transient
16 accommodation rental taxes imposed by P.L.2018, c.49.

17 Pursuant to this bill, a transient accommodation rental will only
18 be subject to taxes if the rental is obtained through a marketplace. A
19 marketplace, online or otherwise, allows accommodations to be
20 listed and provides a means for arranging the rental of the
21 accommodation.

22 The marketplaces are required to collect and remit the taxes on
23 rentals on behalf of accommodation owners. No one else is required
24 to collect and remit the taxes, as accommodations not obtained
25 through a marketplace are not subject to taxes under the bill.

ASSEMBLY, No. 4520

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

Sponsored by:

Assemblyman **JOHN F. MCKEON**

District 27 (Essex and Morris)

Assemblyman **WAYNE P. DEANGELO**

District 14 (Mercer and Middlesex)

Assemblywoman **NANCY J. PINKIN**

District 18 (Middlesex)

Co-Sponsored by:

Assemblywoman **Handlin**, Assemblymen **A.M.Bucco**, **McGuckin**, **Wolfe**,
DePhillips, **Danielsen**, **Dancer**, **Peterson**, **Land**, **Andrzejczak**,
Assemblywoman **Carter**, Assemblyman **Rumpf**, Assemblywomen **Gove**,
Vainieri **Huttle**, Assemblymen **Peters**, **Thomson** and **Milam**

SYNOPSIS

Excludes transient accommodations in shore counties from various State and local taxes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/12/2019)

1 AN ACT excluding transient accommodations in shore counties
2 from the sales and use tax, hotel and motel occupancy fee, and
3 various municipal taxes and fees, amending various parts of the
4 statutory law.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to
10 read as follows:

11 84. As used in sections 82 through 85 of P.L.2015, c.19
12 (C.5:10A-82 et seq.):

13 "Commission" means the New Jersey Sports and Exposition
14 Authority, which may be referred to as the "Meadowlands Regional
15 Commission," as established by section 6 of P.L.2015, c.19
16 (C.5:10A-6).

17 "Constituent municipality" means any of the following
18 municipalities: Carlstadt, East Rutherford, Little Ferry, Lyndhurst,
19 Moonachie, North Arlington, Ridgefield, Rutherford, South
20 Hackensack, and Teterboro in Bergen county; and Jersey City,
21 Kearny, North Bergen, and Secaucus in Hudson county.

22 "Meadowlands district" means the Hackensack Meadowlands
23 District, the area delineated within section 5 of P.L.2015, c.19
24 (C.5:10A-5).

25 "Public venue" means any place located within the Meadowlands
26 district, whether publicly or privately owned, where any facilities
27 for entertainment, amusement, or sports are provided, but shall not
28 include a movie theater.

29 "Public event" means any spectator sporting event, trade show,
30 exposition, concert, amusement, or other event open to the public
31 that takes place at a public venue, but shall not include a major
32 league football game.

33 "Residence" means a house, condominium, or other residential
34 dwelling unit in a building or structure or part of a building or
35 structure that is designed, constructed, leased, rented, let or hired
36 out, or otherwise made available for use as a residence.

37 "Transient accommodation" means a room, group of rooms, or
38 other living or sleeping space for the lodging of occupants,
39 including but not limited to residences or buildings used as
40 residences, other than those in counties of the fifth or sixth class.

41 "Transient accommodation" does not include: a hotel or hotel room;
42 a room, group of rooms, or other living or sleeping space used as a
43 place of assembly; a dormitory or other similar residential facility
44 of an elementary or secondary school or a college or university; a
45 hospital, nursing home, or other similar residential facility of a

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 provider of services for the care, support and treatment of
2 individuals that is licensed by the State; a campsite, cabin, lean-to,
3 or other similar residential facility of a campground or an adult or
4 youth camp; a furnished or unfurnished private residential property,
5 including but not limited to condominiums, bungalows, single-
6 family homes and similar living units, where no maid service, room
7 service, linen changing service or other common hotel services are
8 made available by the lessor and where the keys to the furnished or
9 unfurnished private residential property, whether a physical key,
10 access to a keyless locking mechanism, or other means of physical
11 ingress to the furnished or unfurnished private residential property,
12 are provided to the lessee at the location of an offsite real estate
13 broker licensed by the New Jersey Real Estate Commission
14 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
15 term of at least 90 consecutive days.

16 "Transient space marketplace" means an online marketplace
17 through which a person may offer transient accommodations or
18 hotel rooms to individuals. A "transient space marketplace" allows
19 transient accommodations or hotel rooms to be advertised or listed
20 through an online marketplace in exchange for consideration or
21 provides a means for a customer to arrange for the occupancy of the
22 transient accommodation or hotel room in exchange for
23 consideration. A 'transient space marketplace' shall not include an
24 online marketplace operated by or on behalf of a hotel or hotel
25 corporation that facilitates customer occupancy solely for the hotel
26 or hotel corporation's owned or managed hotels and franchisees.

27 (cf: P.L.2018, c.52, s.1)

28

29 2. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
30 read as follows:

31 3. As used in this act:

32 "Authority" means the New Jersey Economic Development
33 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
34 seq.).

35 "Developer" means any person or entity, whether public or
36 private, including a State entity, that proposes to undertake a project
37 pursuant to a development agreement.

38 "District" or "sports and entertainment district" means a
39 geographic area which includes a project as set forth in the
40 ordinance pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

41 "Eligible municipality" means a municipality: (1) in which is
42 located part of an urban enterprise zone that has been designated
43 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
44 supplement thereto; and (2) which has a population greater than
45 25,000 and less than 29,000 according to the latest federal decennial
46 census in a county of the third class with a population density
47 greater than 295 and less than 304 persons per square mile
48 according to the latest federal decennial census.

1 "Infrastructure improvements" means the construction or
2 rehabilitation of any street, highway, utility, transportation or
3 parking facilities, or other similar improvements; the acquisition of
4 any interest in land as necessary or convenient for the acquisition of
5 any right-of-way or other easement for the purpose of constructing
6 infrastructure improvements; the acquisition, construction or
7 reconstruction of land and site improvements, including demolition,
8 clearance, removal, construction, reconstruction, fill, environmental
9 enhancement or abatement, or other site preparation for
10 development of a sports and entertainment district.

11 "Project" means a sports and entertainment facility and may
12 include infrastructure improvements that are associated with the
13 sports and entertainment facility.

14 "Project cost" means the cost of a project, including the
15 financing, acquisition, development, construction, redevelopment,
16 rehabilitation, reconstruction and improvement costs thereof,
17 financing costs and the administrative costs, including any
18 administrative costs of the authority if bonds are issued pursuant to
19 section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in
20 connection with a sports and entertainment facility which is
21 financed, in whole or in part, by the revenues dedicated by a
22 municipality to a project as authorized pursuant to section 5 of
23 P.L.2007, c.30 (C.34:1B-194).

24 "Residence" means a house, condominium, or other residential
25 dwelling unit in a building or structure or part of a building or
26 structure that is designed, constructed, leased, rented, let or hired
27 out, or otherwise made available for use as a residence.

28 "Sports and entertainment facility" means any privately or
29 publicly owned or operated facility located in a sports and
30 entertainment district that is used primarily for sports contests,
31 entertainment, or both, such as a theater, stadium, museum, arena,
32 automobile racetrack, or other place where performances, concerts,
33 exhibits, games or contests are held.

34 "State Treasurer" or "treasurer" means the treasurer of the State
35 of New Jersey.

36 "Transient accommodation" means a room, group of rooms, or
37 other living or sleeping space for the lodging of occupants,
38 including but not limited to residences or buildings used as
39 residences, other than those in counties of the fifth or sixth class.

40 "Transient accommodation" does not include: a hotel or hotel room;
41 a room, group of rooms, or other living or sleeping space used as a
42 place of assembly; a dormitory or other similar residential facility
43 of an elementary or secondary school or a college or university; a
44 hospital, nursing home, or other similar residential facility of a
45 provider of services for the care, support and treatment of
46 individuals that is licensed by the State; a campsite, cabin, lean-to,
47 or other similar residential facility of a campground or an adult or
48 youth camp; a furnished or unfurnished private residential property,
49 including but not limited to condominiums, bungalows, single-

1 family homes and similar living units, where no maid service, room
2 service, linen changing service or other common hotel services are
3 made available by the lessor and where the keys to the furnished or
4 unfurnished private residential property, whether a physical key,
5 access to a keyless locking mechanism, or other means of physical
6 ingress to the furnished or unfurnished private residential property,
7 are provided to the lessee at the location of an offsite real estate
8 broker licensed by the New Jersey Real Estate Commission
9 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
10 term of at least 90 consecutive days.

11 "Transient space marketplace" means an online marketplace
12 through which a person may offer transient accommodations or
13 hotel rooms to individuals. A "transient space marketplace" allows
14 transient accommodations or hotel rooms to be advertised or listed
15 through an online marketplace in exchange for consideration or
16 provides a means for a customer to arrange for the occupancy of the
17 transient accommodation or hotel room in exchange for
18 consideration. A 'transient space marketplace' shall not include an
19 online marketplace operated by or on behalf of a hotel or hotel
20 corporation that facilitates customer occupancy solely for the hotel
21 or hotel corporation's owned or managed hotels and franchisees.

22 (cf: P.L.2018, c.49, s.3)

23

24 3. Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended to
25 read as follows:

26 2. As used in this act:

27 "Retail sale" or "sale at retail" means and includes:

28 (1) Any sale in the ordinary course of business for consumption
29 of whiskey, beer or other alcoholic beverages by the drink in
30 restaurants, cafes, bars, hotels and other similar establishments;

31 (2) Any cover charge, minimum charge, entertainment, or other
32 similar charge made to any patron of any restaurant, cafe, bar, hotel
33 or other similar establishment;

34 (3) The hiring, with or without service, of any room in any
35 hotel, transient accommodation, inn, rooming or boarding house;

36 (4) The hiring of any rolling chair, beach chair or cabana; and

37 (5) The granting or sale of any ticket, license or permit for
38 admission to any theatre, moving picture exhibition or show, pier,
39 exhibition, or place of amusement, except charges for admission to
40 boxing, wrestling, kick boxing or combative sports events, matches,
41 or exhibitions, which charges are taxed pursuant to section 20 of
42 P.L.1985, c.83 (C.5:2A-20).

43 "Vendor" means any person selling or hiring property or services
44 to another person upon the receipts from which a tax is imposed.

45 "Purchaser" means any person purchasing or hiring property or
46 services from another person, the receipts from which are taxable.

47 "Residence" means a house, condominium, or other residential
48 dwelling unit in a building or structure or part of a building or
49 structure that is designed, constructed, leased, rented, let or hired

1 out, or otherwise made available for use as a residence.

2 "Transient accommodation" means a room, group of rooms, or
3 other living or sleeping space for the lodging of occupants,
4 including but not limited to residences or buildings used as
5 residences, other than those in counties of the fifth or sixth class.

6 "Transient accommodation" does not include: a hotel or hotel room;
7 a room, group of rooms, or other living or sleeping space used as a
8 place of assembly; a dormitory or other similar residential facility
9 of an elementary or secondary school or a college or university; a
10 hospital, nursing home, or other similar residential facility of a
11 provider of services for the care, support and treatment of
12 individuals that is licensed by the State; a campsite, cabin, lean-to,
13 or other similar residential facility of a campground or an adult or
14 youth camp; a furnished or unfurnished private residential property,
15 including but not limited to condominiums, bungalows, single-
16 family homes and similar living units, where no maid service, room
17 service, linen changing service or other common hotel services are
18 made available by the lessor and where the keys to the furnished or
19 unfurnished private residential property, whether a physical key,
20 access to a keyless locking mechanism, or other means of physical
21 ingress to the furnished or unfurnished private residential property,
22 are provided to the lessee at the location of an offsite real estate
23 broker licensed by the New Jersey Real Estate Commission
24 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
25 term of at least 90 consecutive days.

26 "Transient space marketplace" means an online marketplace
27 through which a person may offer transient accommodations or
28 hotel rooms to individuals. A "transient space marketplace" allows
29 transient accommodations or hotel rooms to be advertised or listed
30 through an online marketplace in exchange for consideration or
31 provides a means for a customer to arrange for the occupancy of the
32 transient accommodation or hotel room in exchange for
33 consideration. A 'transient space marketplace' shall not include an
34 online marketplace operated by or on behalf of a hotel or hotel
35 corporation that facilitates customer occupancy solely for the hotel
36 or hotel corporation's owned or managed hotels and franchisees.

37 (cf: P.L.2018, c.49, s.6)

38

39 4. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to
40 read as follows:

41 1. As used in this act:

42 a. "Convention center operating authority" means, in the case
43 of any eligible municipality, the public authority or other
44 governmental entity empowered to operate convention hall and the
45 convention center facilities in the eligible municipality.

46 b. "Director" means the Director of the Division of Taxation in
47 the Department of the Treasury.

48 c. "Eligible municipality" means any municipality in which any
49 portion of the proceeds of a retail sales tax levied by ordinance

1 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
2 (C.40:48-8.15) is applied as authorized by law to the payment of
3 costs of convention center facilities located in the municipality.

4 d. "Hotel" means a building or a portion of a building which is
5 regularly used and kept open as such for the lodging of guests.
6 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
7 boarding house or club, whether or not meals are served, but does
8 not include a transient accommodation.

9 e. "Occupied room" means a room or rooms of any kind in any
10 part of a hotel or transient accommodation, other than a place of
11 assembly, which is used or possessed by a guest or guests, whether
12 or not for consideration.

13 f. "Residence" means a house, condominium, or other
14 residential dwelling unit in a building or structure or part of a
15 building or structure that is designed, constructed, leased, rented, let
16 or hired out, or otherwise made available for use as a residence.

17 g. "Transient accommodation" means a room, group of rooms,
18 or other living or sleeping space for the lodging of occupants,
19 including but not limited to residences or buildings used as
20 residences, other than those in counties of the fifth or sixth class.
21 "Transient accommodation" does not include: a hotel or hotel room;
22 a room, group of rooms, or other living or sleeping space used as a
23 place of assembly; a dormitory or other similar residential facility
24 of an elementary or secondary school or a college or university; a
25 hospital, nursing home, or other similar residential facility of a
26 provider of services for the care, support and treatment of
27 individuals that is licensed by the State; a campsite, cabin, lean-to,
28 or other similar residential facility of a campground or an adult or
29 youth camp; a furnished or unfurnished private residential property,
30 including but not limited to condominiums, bungalows, single-
31 family homes and similar living units, where no maid service, room
32 service, linen changing service or other common hotel services are
33 made available by the lessor and where the keys to the furnished or
34 unfurnished private residential property, whether a physical key,
35 access to a keyless locking mechanism, or other means of physical
36 ingress to the furnished or unfurnished private residential property,
37 are provided to the lessee at the location of an offsite real estate
38 broker licensed by the New Jersey Real Estate Commission
39 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
40 term of at least 90 consecutive days.

41 h. "Transient space marketplace" means an online marketplace
42 through which a person may offer transient accommodations or
43 hotel rooms to individuals. A "transient space marketplace" allows
44 transient accommodations or hotel rooms to be advertised or listed
45 through an online marketplace in exchange for consideration or
46 provides a means for a customer to arrange for the occupancy of the
47 transient accommodation or hotel room in exchange for
48 consideration. A 'transient space marketplace' shall not include an
49 online marketplace operated by or on behalf of a hotel or hotel

1 corporation that facilitates customer occupancy solely for the hotel
2 or hotel corporation's owned or managed hotels and franchisees.
3 (cf: P.L.2018, c.49, s.8)

4

5 5. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
6 as follows:

7 2. As used in this act "hotel" means a building or portion of a
8 building which is regularly used and kept open as such for the
9 lodging of guests. "Hotel" includes an apartment hotel, a motel, inn,
10 and rooming or boarding house or club, whether or not meals are
11 served, but does not include a transient accommodation.

12 "Residence" means a house, condominium, or other residential
13 dwelling unit in a building or structure or part of a building or
14 structure that is designed, constructed, leased, rented, let or hired
15 out, or otherwise made available for use as a residence.

16 "Transient accommodation" means a room, group of rooms, or
17 other living or sleeping space for the lodging of occupants,
18 including but not limited to residences or buildings used as
19 residences. "Transient accommodation" does not include: a hotel or
20 hotel room; a room, group of rooms, or other living or sleeping
21 space used as a place of assembly; a dormitory or other similar
22 residential facility of an elementary or secondary school or a
23 college or university; a hospital, nursing home, or other similar
24 residential facility of a provider of services for the care, support and
25 treatment of individuals that is licensed by the State; a campsite,
26 cabin, lean-to, or other similar residential facility of a campground
27 or an adult or youth camp; a furnished or unfurnished private
28 residential property, including but not limited to condominiums,
29 bungalows, single-family homes and similar living units, where no
30 maid service, room service, linen changing service or other
31 common hotel services are made available by the lessor and where
32 the keys to the furnished or unfurnished private residential property,
33 whether a physical key, access to a keyless locking mechanism, or
34 other means of physical ingress to the furnished or unfurnished
35 private residential property, are provided to the lessee at the
36 location of an offsite real estate broker licensed by the New Jersey
37 Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases
38 of real property with a term of at least 90 consecutive days.

39 "Transient space marketplace" means an online marketplace
40 through which a person may offer transient accommodations or
41 hotel rooms to individuals, other than those in counties of the fifth
42 or sixth class. A "transient space marketplace" allows transient
43 accommodations or hotel rooms to be advertised or listed through
44 an online marketplace in exchange for consideration or provides a
45 means for a customer to arrange for the occupancy of the transient
46 accommodation or hotel room in exchange for consideration. A
47 'transient space marketplace' shall not include an online marketplace
48 operated by or on behalf of a hotel or hotel corporation that

1 facilitates customer occupancy solely for the hotel or hotel
2 corporation's owned or managed hotels and franchisees.
3 (cf: 2018, c.49, s.12)

4

5 6. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to
6 read as follows:

7 3. As used in this act:

8 "Authority" means a tourism improvement and development
9 authority created pursuant to section 18 of this act, P.L.1992, c.165
10 (C.40:54D-18).

11 "Beach operation offset payment " means a payment made by an
12 authority to municipalities in its district for tourism development
13 activities related to operating and maintaining public beaches within
14 a zone to seaward of a line of demarcation located not more than
15 1,000 feet from the mean high water line.

16 "Bond" means any bond or note issued by an authority pursuant
17 to the provisions of this act.

18 "Commissioner" means the Commissioner of the Department of
19 Commerce and Economic Development.

20 "Construction" means the planning, designing, construction,
21 reconstruction, rehabilitation, replacement, repair, extension,
22 enlargement, improvement and betterment of a project, and includes
23 the demolition, clearance and removal of buildings or structures on
24 land acquired, held, leased or used for a project.

25 "Convention center facility" means any convention hall or center
26 or like structure or building, and shall include all facilities,
27 including commercial, office, community service, parking facilities
28 and all property rights, easements and interests, and other facilities
29 constructed for the accommodation and entertainment of tourists
30 and visitors, constructed in conjunction with a convention center
31 facility and forming reasonable appurtenances thereto but does not
32 mean the Wildwood convention center facility as defined in this
33 section.

34 "Tourism project" means the convention center facility or
35 outdoor special events arena, or both, located in the territorial limits
36 of the district, and any costs associated therewith but does not mean
37 the Wildwood convention center facility as defined in this section.

38 "Cost" means all or any part of the expenses incurred in
39 connection with the acquisition, construction and maintenance of
40 any real property, lands, structures, real or personal property rights,
41 rights-of-way, franchises, easements, and interests acquired or used
42 for a project; any financing charges and reserves for the payment of
43 principal and interest on bonds or notes; the expenses of
44 engineering, appraisal, architectural, accounting, financial and legal
45 services; and other expenses as may be necessary or incident to the
46 acquisition, construction and maintenance of a project, the
47 financing thereof and the placing of the project into operation.

48 "County" means a county of the sixth class.

1 "Director" means the Director of the Division of Taxation in the
2 Department of the Treasury.

3 "Fund" means a Reserve Fund created pursuant to section 13 of
4 P.L.1992, c.165 (C.40:54D-13).

5 "Outdoor special events arena" means a facility or structure for
6 the holding outdoors of public events, entertainments, sporting
7 events, concerts or similar activities, and shall include all facilities,
8 property rights and interests, and all appurtenances reasonably
9 related thereto, constructed for the accommodation and
10 entertainment of tourists and visitors.

11 "Participant amusement" means a sporting activity or amusement
12 the charge for which is exempt from taxation under the "Sales and
13 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the
14 participation of the patron in the activity or amusement, such as
15 bowling alleys, swimming pools, water slides, miniature golf,
16 boardwalk or carnival games and amusements, baseball batting
17 cages, tennis courts, and fishing and sightseeing boats.

18 "Predominantly tourism related retail receipts" means:

19 a. The rent for every occupancy of a room or rooms in a hotel
20 or transient accommodation subject to taxation pursuant to
21 subsection (d) of section 3 of the "Sales and Use Tax Act,"
22 P.L.1966, c.30 (C.54:32B-3);

23 b. Receipts from the sale of food and drink in or by restaurants,
24 taverns, or other establishments in the district, or by caterers,
25 including in the amount of such receipt any cover, minimum,
26 entertainment or other charge made to patrons or customers, subject
27 to taxation pursuant to subsection (c) of section 3 of the "Sales and
28 Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts
29 from sales of food and beverages sold through coin operated
30 vending machines; and

31 c. Admissions charges to or the use of any place of amusement
32 or of any roof garden, cabaret or similar place, subject to taxation
33 pursuant to subsection (e) of section 3 of the "Sales and Use Tax
34 Act," P.L.1966, c.30 (C.54:32B-3).

35 "Purchaser" means any person purchasing or hiring property or
36 services from another person, the receipts or charges from which
37 are taxable by an ordinance authorized under P.L.1992, c.165
38 (C.40:54D-1 et seq.).

39 "Residence" means a house, condominium, or other residential
40 dwelling unit in a building or structure or part of a building or
41 structure that is designed, constructed, leased, rented, let or hired
42 out, or otherwise made available for use as a residence.

43 "Sports authority" means the New Jersey Sports and Exposition
44 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et
45 seq.).

46 "Tourism" means activities involved in providing and marketing
47 services and products, including accommodations, for nonresidents
48 and residents who travel to and in New Jersey for recreation and
49 pleasure.

1 "Tourism assessment" means an assessment on the rent for every
2 occupancy of a room or rooms in a hotel or transient
3 accommodation subject to taxation pursuant to subsection (d) of
4 section 3 of the "Sales and Use Tax Act," P.L.1966, c.30
5 (C.54:32B-3).

6 "Tourism development activities" include operations of the
7 authority to carry out its statutory duty to promote, advertise and
8 market the district, including making beach operation offset
9 payments.

10 "Tourism development fee" means a fee imposed by ordinance
11 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

12 "Tourism improvement and development district" or "district"
13 means an area within two or more contiguous municipalities within
14 a county of the sixth class established pursuant to ordinance enacted
15 by those municipalities, for the purposes of promoting the
16 acquisition, construction, maintenance, operation and support of a
17 tourism project, and to devote the revenue and the proceeds from
18 taxes upon predominantly tourism related retail receipts and from
19 tourism development fees to the purposes as herein defined.

20 "Tourist industry" means the industry consisting of private and
21 public organizations which directly or indirectly provide services
22 and products to nonresidents and residents who travel to and in New
23 Jersey for recreation and pleasure.

24 "Tourism lodging" means any dwelling unit, other than a
25 dwelling unit in a hotel the rent for which is subject to taxation
26 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et
27 seq.), regardless of the form of ownership of the unit, rented with or
28 without a lease, whether rented by the owner or by an agent for the
29 owner.

30 "Transient accommodation" means a room, group of rooms, or
31 other living or sleeping space for the lodging of occupants,
32 including but not limited to residences or buildings used as
33 residences, other than those in counties of the fifth or sixth class.

34 "Transient accommodation" does not include: a hotel or hotel room;
35 a room, group of rooms, or other living or sleeping space used as a
36 place of assembly; a dormitory or other similar residential facility
37 of an elementary or secondary school or a college or university; a
38 hospital, nursing home, or other similar residential facility of a
39 provider of services for the care, support and treatment of
40 individuals that is licensed by the State; a campsite, cabin, lean-to,
41 or other similar residential facility of a campground or an adult or
42 youth camp; a furnished or unfurnished private residential property,
43 including but not limited to condominiums, bungalows, single-
44 family homes and similar living units, where no maid service, room
45 service, linen changing service or other common hotel services are
46 made available by the lessor and where the keys to the furnished or
47 unfurnished private residential property, whether a physical key,
48 access to a keyless locking mechanism, or other means of physical
49 ingress to the furnished or unfurnished private residential property,

1 are provided to the lessee at the location of an offsite real estate
2 broker licensed by the New Jersey Real Estate Commission
3 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
4 term of at least 90 consecutive days.

5 "Transient space marketplace" means an online marketplace
6 through which a person may offer transient accommodations or
7 hotel rooms to individuals. A "transient space marketplace" allows
8 transient accommodations or hotel rooms to be advertised or listed
9 through an online marketplace in exchange for consideration or
10 provides a means for a customer to arrange for the occupancy of the
11 transient accommodation or hotel room in exchange for
12 consideration. A 'transient space marketplace' shall not include an
13 online marketplace operated by or on behalf of a hotel or hotel
14 corporation that facilitates customer occupancy solely for the hotel
15 or hotel corporation's owned or managed hotels and franchisees.

16 "Vendor" means a person selling or hiring property or services to
17 another person, the receipts or charges from which are taxable by an
18 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

19 "Wildwood convention center facility" means the project
20 authorized by paragraph (12) of subsection a. of section 6 of
21 P.L.1971, c.137 (C.5:10-6).

22 (cf: P.L.2018, c.49, s.17)

23

24 7. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read
25 as follows:

26 2. Unless the context in which they occur requires otherwise,
27 the following terms when used in this act shall mean:

28 (a) "Person" includes an individual, trust, partnership, limited
29 partnership, limited liability company, society, association, joint
30 stock company, corporation, public corporation or public authority,
31 estate, receiver, trustee, assignee, referee, fiduciary and any other
32 legal entity.

33 (b) "Purchase at retail" means a purchase by any person at a
34 retail sale.

35 (c) "Purchaser" means a person to whom a sale of personal
36 property is made or to whom a service is furnished.

37 (d) "Receipt" means the amount of the sales price of any
38 tangible personal property, specified digital product or service
39 taxable under this act.

40 (e) "Retail sale" means any sale, lease, or rental for any purpose,
41 other than for resale, sublease, or subrent.

42 (1) For the purposes of this act a sale is for "resale, sublease, or
43 subrent" if it is a sale (A) for resale either as such or as converted
44 into or as a component part of a product produced for sale by the
45 purchaser, including the conversion of natural gas into another
46 intermediate or end product, other than electricity or thermal
47 energy, produced for sale by the purchaser, (B) for use by that
48 person in performing the services subject to tax under subsection
49 (b) of section 3 where the property so sold becomes a physical

1 component part of the property upon which the services are
2 performed or where the property so sold is later actually transferred
3 to the purchaser of the service in conjunction with the performance
4 of the service subject to tax, (C) of telecommunications service to a
5 telecommunications service provider for use as a component part of
6 telecommunications service provided to an ultimate customer, or
7 (D) to a person who receives by contract a product transferred
8 electronically for further commercial broadcast, rebroadcast,
9 transmission, retransmission, licensing, relicensing, distribution,
10 redistribution or exhibition of the product, in whole or in part, to
11 another person, other than rights to redistribute based on statutory
12 or common law doctrine such as fair use.

13 (2) For the purposes of this act, the term "retail sale" includes:
14 sales of tangible personal property to all contractors, subcontractors
15 or repairmen of materials and supplies for use by them in erecting
16 structures for others, or building on, or otherwise improving,
17 altering, or repairing real property of others.

18 (3) (Deleted by amendment, P.L.2005, c.126).

19 (4) The term "retail sale" does not include:

20 (A) Professional, insurance, or personal service transactions
21 which involve the transfer of tangible personal property as an
22 inconsequential element, for which no separate charges are made.

23 (B) The transfer of tangible personal property to a corporation,
24 solely in consideration for the issuance of its stock, pursuant to a
25 merger or consolidation effected under the laws of New Jersey or
26 any other jurisdiction.

27 (C) The distribution of property by a corporation to its
28 stockholders as a liquidating dividend.

29 (D) The distribution of property by a partnership to its partners
30 in whole or partial liquidation.

31 (E) The transfer of property to a corporation upon its
32 organization in consideration for the issuance of its stock.

33 (F) The contribution of property to a partnership in
34 consideration for a partnership interest therein.

35 (G) The sale of tangible personal property where the purpose of
36 the vendee is to hold the thing transferred as security for the
37 performance of an obligation of the seller.

38 (f) "Sale, selling or purchase" means any transfer of title or
39 possession or both, exchange or barter, rental, lease or license to
40 use or consume, conditional or otherwise, in any manner or by any
41 means whatsoever for a consideration, or any agreement therefor,
42 including the rendering of any service, taxable under this act, for a
43 consideration or any agreement therefor.

44 (g) "Tangible personal property" means personal property that
45 can be seen, weighed, measured, felt, or touched, or that is in any
46 other manner perceptible to the senses. "Tangible personal
47 property" includes electricity, water, gas, steam, and prewritten
48 computer software including prewritten computer software
49 delivered electronically.

1 (h) "Use" means the exercise of any right or power over tangible
2 personal property, specified digital products, services to property or
3 products, or services by the purchaser thereof and includes, but is
4 not limited to, the receiving, storage or any keeping or retention for
5 any length of time, withdrawal from storage, any distribution, any
6 installation, any affixation to real or personal property, or any
7 consumption of such property or products. Use also includes the
8 exercise of any right or power over intrastate or interstate
9 telecommunications and prepaid calling services. Use also includes
10 the exercise of any right or power over utility service. Use also
11 includes the derivation of a direct or indirect benefit from a service.

12 (i) "Seller" means a person making sales, leases or rentals of
13 personal property or services.

14 (1) The term "seller" includes:

15 (A) A person making sales, leases or rentals of tangible personal
16 property, specified digital products or services, the receipts from
17 which are taxed by this act;

18 (B) A person maintaining a place of business in the State or
19 having an agent maintaining a place of business in the State and
20 making sales, whether at such place of business or elsewhere, to
21 persons within the State of tangible personal property, specified
22 digital products or services, the use of which is taxed by this act;

23 (C) A person who solicits business either by employees,
24 independent contractors, agents or other representatives or by
25 distribution of catalogs or other advertising matter and by reason
26 thereof makes sales to persons within the State of tangible personal
27 property, specified digital products or services, the use of which is
28 taxed by this act.

29 A person making sales of tangible personal property, specified
30 digital products, or services taxable under the "Sales and Use Tax
31 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
32 soliciting business through an independent contractor or other
33 representative if the person making sales enters into an agreement
34 with an independent contractor having physical presence in this
35 State or other representative having physical presence in this State,
36 for a commission or other consideration, under which the
37 independent contractor or representative directly or indirectly refers
38 potential customers, whether by a link on an internet website or
39 otherwise, and the cumulative gross receipts from sales to
40 customers in this State who were referred by all independent
41 contractors or representatives that have this type of an agreement
42 with the person making sales are in excess of \$10,000 during the
43 preceding four quarterly periods ending on the last day of March,
44 June, September, and December. This presumption may be rebutted
45 by proof that the independent contractor or representative with
46 whom the person making sales has an agreement did not engage in
47 any solicitation in the State on behalf of the person that would
48 satisfy the nexus requirements of the United States Constitution
49 during the four quarterly periods in question. Nothing in this

1 subparagraph shall be construed to narrow the scope of the terms
2 independent contractor or other representative for purposes of any
3 other provision of the "Sales and Use Tax Act," P.L.1966, c.30
4 (C.54:32B-1 et seq.);

5 (D) Any other person making sales to persons within the State of
6 tangible personal property, specified digital products or services,
7 the use of which is taxed by this act, who may be authorized by the
8 director to collect the tax imposed by this act;

9 (E) The State of New Jersey, any of its agencies,
10 instrumentalities, public authorities, public corporations (including
11 a public corporation created pursuant to agreement or compact with
12 another state) or political subdivisions when such entity sells
13 services or property of a kind ordinarily sold by private persons;

14 (F) (Deleted by amendment, P.L.2005, c.126);

15 (G) A person who sells, stores, delivers or transports energy to
16 users or customers in this State whether by mains, lines or pipes
17 located within this State or by any other means of delivery;

18 (H) A person engaged in collecting charges in the nature of
19 initiation fees, membership fees or dues for access to or use of the
20 property or facilities of a health and fitness, athletic, sporting or
21 shopping club or organization; and

22 (I) A person engaged in the business of parking, storing or
23 garaging motor vehicles.

24 (2) In addition, when in the opinion of the director it is
25 necessary for the efficient administration of this act to treat any
26 salesman, representative, peddler or canvasser as the agent of the
27 seller, distributor, supervisor or employer under whom the agent
28 operates or from whom the agent obtains tangible personal property
29 or a specified digital product sold by the agent or for whom the
30 agent solicits business, the director may, in the director's discretion,
31 treat such agent as the seller jointly responsible with the agent's
32 principal, distributor, supervisor or employer for the collection and
33 payment over of the tax. A person is an agent of a seller in all
34 cases, but not limited to such cases, that: (A) the person and the
35 seller have the relationship of a "related person" described pursuant
36 to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller
37 and the person use an identical or substantially similar name,
38 tradename, trademark, or goodwill, to develop, promote, or
39 maintain sales, or the person and the seller pay for each other's
40 services in whole or in part contingent upon the volume or value of
41 sales, or the person and the seller share a common business plan or
42 substantially coordinate their business plans, or the person provides
43 services to, or that inure to the benefit of, the seller related to
44 developing, promoting, or maintaining the seller's market.

45 (3) Notwithstanding any other provision of law or
46 administrative action to the contrary, transient space marketplaces
47 shall be required to collect and pay on behalf of persons engaged in
48 the business of providing transient accommodations or hotel rooms
49 located in this State the tax for transactions solely consummated

1 through the transient space marketplace. For not less than four years
2 following the end of the calendar year in which the transaction
3 occurred, the transient space marketplace shall maintain the
4 following data for those transactions consummated through the
5 transient space marketplace:

6 **[(1)] (A)** The name of the person who provided the transient
7 accommodation or hotel room;

8 **[(2)] (B)** The name of the customer who procured occupancy
9 of the transient accommodation or hotel room;

10 **[(3)] (C)** The address, including any unit designation, of the
11 transient accommodation or hotel room;

12 **[(4)] (D)** The dates and nightly rates for which the consumer
13 procured occupancy of the transient accommodation or hotel room;

14 **[(5)] (E)** The municipal transient accommodation registration
15 number, if applicable;

16 **[(6)] (F)** A statement as to whether such booking services will
17 be provided in connection with (i) short-term rental of the entirety
18 of such unit, (ii) short-term rental of part of such unit, but not the
19 entirety of such unit, and/or (iii) short-term rental of the entirety of
20 such unit, or part thereof, in which a non-short-term occupant will
21 continue to occupy such unit for the duration of such short-term
22 rental;

23 **[(7)] (G)** The individualized name or number of each such
24 advertisement or listing connected to such unit and the uniform
25 resource locator (URL) for each such listing or advertisement,
26 where applicable; and

27 **[(8)] (H)** Such other information as the Division of Taxation
28 may by rule require.

29 The Division of Taxation may audit transient space marketplaces
30 as necessary to ensure data accuracy and enforce tax compliance.

31 (j) "Hotel" means a building or portion of a building which is
32 regularly used and kept open as such for the lodging of guests.
33 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
34 boarding house or club, whether or not meals are served, but does
35 not include a transient accommodation.

36 (k) "Occupancy" means the use or possession or the right to the
37 use or possession, of any room in a hotel or transient
38 accommodation.

39 (l) "Occupant" means a person who, for a consideration, uses,
40 possesses, or has the right to use or possess, any room in a hotel or
41 transient accommodation under any lease, concession, permit, right
42 of access, license to use or other agreement, or otherwise.

43 (m) "Permanent resident" means any occupant of any room or
44 rooms in a hotel or transient accommodation for at least 90
45 consecutive days shall be considered a permanent resident with
46 regard to the period of such occupancy.

- 1 (n) "Room" means any room or rooms of any kind in any part or
2 portion of a hotel or transient accommodation, which is available
3 for or let out for any purpose other than a place of assembly.
- 4 (o) "Admission charge" means the amount paid for admission,
5 including any service charge and any charge for entertainment or
6 amusement or for the use of facilities therefor.
- 7 (p) "Amusement charge" means any admission charge, dues or
8 charge of a roof garden, cabaret or other similar place.
- 9 (q) "Charge of a roof garden, cabaret or other similar place"
10 means any charge made for admission, refreshment, service, or
11 merchandise at a roof garden, cabaret or other similar place.
- 12 (r) "Dramatic or musical arts admission charge" means any
13 admission charge paid for admission to a theater, opera house,
14 concert hall or other hall or place of assembly for a live, dramatic,
15 choreographic or musical performance.
- 16 (s) "Lessor" means any person who is the owner, licensee, or
17 lessee of any premises, tangible personal property or a specified
18 digital product which the person leases, subleases, or grants a
19 license to use to other persons.
- 20 (t) "Place of amusement" means any place where any facilities
21 for entertainment, amusement, or sports are provided.
- 22 (u) "Casual sale" means an isolated or occasional sale of an item
23 of tangible personal property or a specified digital product by a
24 person who is not regularly engaged in the business of making retail
25 sales of such property or product where the item of tangible
26 personal property or the specified digital product was obtained by
27 the person making the sale, through purchase or otherwise, for the
28 person's own use.
- 29 (v) "Motor vehicle" includes all vehicles propelled otherwise
30 than by muscular power (excepting such vehicles as run only upon
31 rails or tracks), trailers, semitrailers, house trailers, or any other
32 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
33 designed for operation on the public highways.
- 34 (w) "Persons required to collect tax" or "persons required to
35 collect any tax imposed by this act" includes: every seller of
36 tangible personal property, specified digital products or services;
37 every recipient of amusement charges; every operator of a hotel or
38 transient accommodation; every seller of a telecommunications
39 service; every recipient of initiation fees, membership fees or dues
40 for access to or use of the property or facilities of a health and
41 fitness, athletic, sporting or shopping club or organization; and
42 every recipient of charges for parking, storing or garaging a motor
43 vehicle. Said terms shall also include any officer or employee of a
44 corporation or of a dissolved corporation who as such officer or
45 employee is under a duty to act for such corporation in complying
46 with any requirement of this act and any member of a partnership.
- 47 (x) "Customer" includes: every purchaser of tangible personal
48 property, specified digital products or services; every patron paying
49 or liable for the payment of any amusement charge; every occupant

1 of a room or rooms in a hotel or transient accommodation; every
2 person paying charges in the nature of initiation fees, membership
3 fees or dues for access to or use of the property or facilities of a
4 health and fitness, athletic, sporting or shopping club or
5 organization; and every purchaser of parking, storage or garaging a
6 motor vehicle.

7 (y) "Property and services the use of which is subject to tax"
8 includes: (1) all property sold to a person within the State, whether
9 or not the sale is made within the State, the use of which property is
10 subject to tax under section 6 or will become subject to tax when
11 such property is received by or comes into the possession or control
12 of such person within the State; (2) all services rendered to a person
13 within the State, whether or not such services are performed within
14 the State, upon tangible personal property or a specified digital
15 product the use of which is subject to tax under section 6 or will
16 become subject to tax when such property or product is distributed
17 within the State or is received by or comes into possession or
18 control of such person within the State; (3) intrastate, interstate, or
19 international telecommunications sourced to this State pursuant to
20 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
21 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
22 delivered in this State for use in this State; (6) utility service sold,
23 exchanged or delivered in this State for use in this State; (7) mail
24 processing services in connection with printed advertising material
25 distributed in this State; (8) (Deleted by amendment, P.L.2005,
26 c.126); and (9) services the benefit of which are received in this
27 State.

28 (z) "Director" means the Director of the Division of Taxation in
29 the State Department of the Treasury, or any officer, employee or
30 agency of the Division of Taxation in the Department of the
31 Treasury duly authorized by the director (directly, or indirectly by
32 one or more redelegations of authority) to perform the functions
33 mentioned or described in this act.

34 (aa) "Lease or rental" means any transfer of possession or control
35 of tangible personal property for a fixed or indeterminate term for
36 consideration. A "lease or rental" may include future options to
37 purchase or extend.

38 (1) "Lease or rental" does not include:

39 (A) A transfer of possession or control of property under a
40 security agreement or deferred payment plan that requires the
41 transfer of title upon completion of the required payments;

42 (B) A transfer of possession or control of property under an
43 agreement that requires the transfer of title upon completion of
44 required payments and payment of an option price does not exceed
45 the greater of \$100 or one percent of the total required payments; or

46 (C) Providing tangible personal property or a specified digital
47 product along with an operator for a fixed or indeterminate period
48 of time. A condition of this exclusion is that the operator is
49 necessary for the equipment to perform as designed. For the

1 purpose of this subparagraph, an operator must do more than
2 maintain, inspect, or set-up the tangible personal property or
3 specified digital product.

4 (2) "Lease or rental" does include agreements covering motor
5 vehicles and trailers where the amount of consideration may be
6 increased or decreased by reference to the amount realized upon
7 sale or disposition of the property as defined in 26 U.S.C.
8 s.7701(h)(1).

9 (3) The definition of "lease or rental" provided in this subsection
10 shall be used for the purposes of this act regardless of whether a
11 transaction is characterized as a lease or rental under generally
12 accepted accounting principles, the federal Internal Revenue Code
13 or other provisions of federal, state or local law.

14 (bb) (Deleted by amendment, P.L.2005, c.126).

15 (cc) "Telecommunications service" means the electronic
16 transmission, conveyance, or routing of voice, data, audio, video, or
17 any other information or signals to a point, or between or among
18 points.

19 "Telecommunications service" shall include such transmission,
20 conveyance, or routing in which computer processing applications
21 are used to act on the form, code, or protocol of the content for
22 purposes of transmission, conveyance, or routing without regard to
23 whether such service is referred to as voice over Internet protocol
24 services or is classified by the Federal Communications
25 Commission as enhanced or value added.

26 "Telecommunications service" shall not include:

27 (1) (Deleted by amendment, P.L.2008, c.123);

28 (2) (Deleted by amendment, P.L.2008, c.123);

29 (3) (Deleted by amendment, P.L.2008, c.123);

30 (4) (Deleted by amendment, P.L.2008, c.123);

31 (5) (Deleted by amendment, P.L.2008, c.123);

32 (6) (Deleted by amendment, P.L.2008, c.123);

33 (7) data processing and information services that allow data to
34 be generated, acquired, stored, processed, or retrieved and delivered
35 by an electronic transmission to a purchaser where such purchaser's
36 primary purpose for the underlying transaction is the processed data
37 or information;

38 (8) installation or maintenance of wiring or equipment on a
39 customer's premises;

40 (9) tangible personal property;

41 (10) advertising, including but not limited to directory
42 advertising;

43 (11) billing and collection services provided to third parties;

44 (12) internet access service;

45 (13) radio and television audio and video programming services,
46 regardless of the medium, including the furnishing of transmission,
47 conveyance, and routing of such services by the programming
48 service provider. Radio and television audio and video
49 programming services shall include but not be limited to cable

1 service as defined in section 47 U.S.C. s.522(6) and audio and video
2 programming services delivered by commercial mobile radio
3 service providers, as defined in section 47 C.F.R. 20.3;

4 (14) ancillary services; or

5 (15) digital products delivered electronically, including but not
6 limited to software, music, video, reading materials, or ringtones.

7 For the purposes of this subsection:

8 "ancillary service" means a service that is associated with or
9 incidental to the provision of telecommunications services,
10 including but not limited to detailed telecommunications billing,
11 directory assistance, vertical service, and voice mail service;

12 "conference bridging service" means an ancillary service that links
13 two or more participants of an audio or video conference call and
14 may include the provision of a telephone number. Conference
15 bridging service does not include the telecommunications services
16 used to reach the conference bridge;

17 "detailed telecommunications billing service" means an ancillary
18 service of separately stating information pertaining to individual
19 calls on a customer's billing statement;

20 "directory assistance" means an ancillary service of providing
21 telephone number information or address information or both;

22 "vertical service" means an ancillary service that is offered in
23 connection with one or more telecommunications services, which
24 offers advanced calling features that allow customers to identify
25 callers and to manage multiple calls and call connections, including
26 conference bridging services; and

27 "voice mail service" means an ancillary service that enables the
28 customer to store, send, or receive recorded messages. Voice mail
29 service does not include any vertical service that a customer may be
30 required to have to utilize the voice mail service.

31 (dd) (1) "Intrastate telecommunications" means a
32 telecommunications service that originates in one United States
33 state or a United States territory or possession or federal district,
34 and terminates in the same United States state or United States
35 territory or possession or federal district.

36 (2) "Interstate telecommunications" means a
37 telecommunications service that originates in one United States
38 state or a United States territory or possession or federal district,
39 and terminates in a different United States state or United States
40 territory or possession or federal district.

41 (3) "International telecommunications" means a
42 telecommunications service that originates or terminates in the
43 United States and terminates or originates outside the United States,
44 respectively. "United States" includes the District of Columbia or a
45 United States territory or possession.

46 (ee) (Deleted by amendment, P.L.2008, c.123)

47 (ff) "Natural gas" means any gaseous fuel distributed through a
48 pipeline system.

49 (gg) "Energy" means natural gas or electricity.

- 1 (hh) "Utility service" means the transportation or transmission of
2 natural gas or electricity by means of mains, wires, lines or pipes, to
3 users or customers.
- 4 (ii) "Self-generation unit" means a facility located on the user's
5 property, or on property purchased or leased from the user by the
6 person owning the self-generation unit and such property is
7 contiguous to the user's property, which generates electricity to be
8 used only by that user on the user's property and is not transported
9 to the user over wires that cross a property line or public
10 thoroughfare unless the property line or public thoroughfare merely
11 bifurcates the user's or self-generation unit owner's otherwise
12 contiguous property.
- 13 (jj) "Co-generation facility" means a facility the primary
14 purpose of which is the sequential production of electricity and
15 steam or other forms of useful energy which are used for industrial
16 or commercial heating or cooling purposes and which is designated
17 by the Federal Energy Regulatory Commission, or its successor, as
18 a "qualifying facility" pursuant to the provisions of the "Public
19 Utility Regulatory Policies Act of 1978," Pub.L.95-617.
- 20 (kk) "Non-utility" means a company engaged in the sale,
21 exchange or transfer of natural gas that was not subject to the
22 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to
23 December 31, 1997.
- 24 (ll) "Pre-paid calling service" means the right to access
25 exclusively telecommunications services, which shall be paid for in
26 advance and which enables the origination of calls using an access
27 number or authorization code, whether manually or electronically
28 dialed, and that is sold in predetermined units or dollars of which
29 the number declines with use in a known amount.
- 30 (mm) "Mobile telecommunications service" means the same as
31 that term is defined in the federal "Mobile Telecommunications
32 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).
- 33 (nn) (Deleted by amendment, P.L.2008, c.123)
- 34 (oo) (1) "Sales price" is the measure subject to sales tax and
35 means the total amount of consideration, including cash, credit,
36 property, and services, for which personal property or services are
37 sold, leased, or rented, valued in money, whether received in money
38 or otherwise, without any deduction for the following:
- 39 (A) The seller's cost of the property sold;
- 40 (B) The cost of materials used, labor or service cost, interest,
41 losses, all costs of transportation to the seller, all taxes imposed on
42 the seller, and any other expense of the seller;
- 43 (C) Charges by the seller for any services necessary to complete
44 the sale;
- 45 (D) Delivery charges;
- 46 (E) (Deleted by amendment, P.L.2011, c.49); and
- 47 (F) (Deleted by amendment, P.L.2008, c.123).
- 48 (2) "Sales price" does not include:

1 (A) Discounts, including cash, term, or coupons that are not
2 reimbursed by a third party, that are allowed by a seller and taken
3 by a purchaser on a sale;

4 (B) Interest, financing, and carrying charges from credit
5 extended on the sale of personal property or services, if the amount
6 is separately stated on the invoice, bill of sale, or similar document
7 given to the purchaser;

8 (C) Any taxes legally imposed directly on the consumer that are
9 separately stated on the invoice, bill of sale, or similar document
10 given to the purchaser;

11 (D) The amount of sales price for which food stamps have been
12 properly tendered in full or part payment pursuant to the federal
13 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

14 (E) Credit for any trade-in of property of the same kind accepted
15 in part payment and intended for resale if the amount is separately
16 stated on the invoice, bill of sale, or similar document given to the
17 purchaser.

18 (3) "Sales price" includes consideration received by the seller
19 from third parties if:

20 (A) The seller actually receives consideration from a party other
21 than the purchaser and the consideration is directly related to a price
22 reduction or discount on the sale;

23 (B) The seller has an obligation to pass the price reduction or
24 discount through to the purchaser;

25 (C) The amount of the consideration attributable to the sale is
26 fixed and determinable by the seller at the time of the sale of the
27 item to the purchaser; and

28 (D) One of the following criteria is met:

29 (i) the purchaser presents a coupon, certificate, or other
30 documentation to the seller to claim a price reduction or discount
31 where the coupon, certificate, or documentation is authorized,
32 distributed, or granted by a third party with the understanding that
33 the third party will reimburse any seller to whom the coupon,
34 certificate, or documentation is presented;

35 (ii) the purchaser identifies himself to the seller as a member of
36 a group or organization entitled to a price reduction or discount;
37 provided however, that a preferred customer card that is available to
38 any patron does not constitute membership in such a group; or

39 (iii) the price reduction or discount is identified as a third party
40 price reduction or discount on the invoice received by the purchaser
41 or on a coupon, certificate, or other documentation presented by the
42 purchaser.

43 (4) In the case of a bundled transaction that includes a
44 telecommunications service, an ancillary service, internet access, or
45 an audio or video programming service, if the price is attributable to
46 products that are taxable and products that are nontaxable, the
47 portion of the price attributable to the nontaxable products is
48 subject to tax unless the provider can identify by reasonable and
49 verifiable standards such portion from its books and records that are

1 kept in the regular course of business for other purposes, including
2 non-tax purposes.

3 (pp) "Purchase price" means the measure subject to use tax and
4 has the same meaning as "sales price."

5 (qq) "Sales tax" means the tax imposed on certain transactions
6 pursuant to the provisions of the "Sales and Use Tax Act,"
7 P.L.1966, c.30 (C.54:32B-1 et seq.).

8 (rr) "Delivery charges" means charges by the seller for
9 preparation and delivery to a location designated by the purchaser
10 of personal property or services including, but not limited to,
11 transportation, shipping, postage, handling, crating, and packing. If
12 a shipment includes both exempt and taxable property, the seller
13 should allocate the delivery charge by using: (1) a percentage based
14 on the total sales price of the taxable property compared to the total
15 sales price of all property in the shipment; or (2) a percentage based
16 on the total weight of the taxable property compared to the total
17 weight of all property in the shipment. The seller shall tax the
18 percentage of the delivery charge allocated to the taxable property
19 but is not required to tax the percentage allocated to the exempt
20 property.

21 (ss) "Direct mail" means printed material delivered or distributed
22 by United States mail or other delivery service to a mass audience
23 or to addresses on a mailing list provided by the purchaser or at the
24 direction of the purchaser in cases in which the cost of the items are
25 not billed directly to the recipients. "Direct mail" includes tangible
26 personal property supplied directly or indirectly by the purchaser to
27 the direct mail seller for inclusion in the package containing the
28 printed material. "Direct mail" does not include multiple items of
29 printed material delivered to a single address.

30 (tt) "Streamlined Sales and Use Tax Agreement" means the
31 agreement entered into as governed and authorized by the "Uniform
32 Sales and Use Tax Administration Act," P.L.2001, c.431
33 (C.54:32B-44 et seq.).

34 (uu) "Alcoholic beverages" means beverages that are suitable for
35 human consumption and contain one-half of one percent or more of
36 alcohol by volume.

37 (vv) (Deleted by amendment, P.L.2011, c.49)

38 (ww) "Landscaping services" means services that result in a
39 capital improvement to land other than structures of any kind
40 whatsoever, such as: seeding, sodding or grass plugging of new
41 lawns; planting trees, shrubs, hedges, plants; and clearing and
42 filling land.

43 (xx) "Investigation and security services" means:

44 (1) investigation and detective services, including detective
45 agencies and private investigators, and fingerprint, polygraph,
46 missing person tracing and skip tracing services;

47 (2) security guard and patrol services, including bodyguard and
48 personal protection, guard dog, guard, patrol, and security services;

49 (3) armored car services; and

1 (4) security systems services, including security, burglar, and
2 fire alarm installation, repair or monitoring services.

3 (yy) "Information services" means the furnishing of information
4 of any kind, which has been collected, compiled, or analyzed by the
5 seller, and provided through any means or method, other than
6 personal or individual information which is not incorporated into
7 reports furnished to other people.

8 (zz) "Specified digital product" means an electronically
9 transferred digital audio-visual work, digital audio work, or digital
10 book; provided however, that a digital code which provides a
11 purchaser with a right to obtain the product shall be treated in the
12 same manner as a specified digital product.

13 (aaa) "Digital audio-visual work" means a series of related
14 images which, when shown in succession, impart an impression of
15 motion, together with accompanying sounds, if any.

16 (bbb) "Digital audio work" means a work that results from the
17 fixation of a series of musical, spoken, or other sounds, including a
18 ringtone.

19 (ccc) "Digital book" means a work that is generally recognized
20 in the ordinary and usual sense as a book.

21 (ddd) "Transferred electronically" means obtained by the
22 purchaser by means other than tangible storage media.

23 (eee) "Ringtone" means a digitized sound file that is
24 downloaded onto a device and that may be used to alert the
25 purchaser with respect to a communication.

26 (fff) "Residence" means a house, condominium, or other
27 residential dwelling unit in a building or structure or part of a
28 building or structure that is designed, constructed, leased, rented, let
29 or hired out, or otherwise made available for use as a residence.

30 (ggg) "Transient accommodation" means a room, group of
31 rooms, or other living or sleeping space for the lodging of
32 occupants, including but not limited to residences or buildings used
33 as residences, other than those in counties of the fifth or sixth class.

34 "Transient accommodation" does not include: a hotel or hotel room;
35 a room, group of rooms, or other living or sleeping space used as a
36 place of assembly; a dormitory or other similar residential facility
37 of an elementary or secondary school or a college or university; a
38 hospital, nursing home, or other similar residential facility of a
39 provider of services for the care, support and treatment of
40 individuals that is licensed by the State; a campsite, cabin, lean-to,
41 or other similar residential facility of a campground or an adult or
42 youth camp; a furnished or unfurnished private residential property,
43 including but not limited to condominiums, bungalows, single-
44 family homes and similar living units, where no maid service, room
45 service, linen changing service or other common hotel services are
46 made available by the lessor and where the keys to the furnished or
47 unfurnished private residential property, whether a physical key,
48 access to a keyless locking mechanism, or other means of physical
49 ingress to the furnished or unfurnished private residential property,

1 are provided to the lessee at the location of an offsite real estate
2 broker licensed by the New Jersey Real Estate Commission
3 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
4 term of at least 90 consecutive days.

5 (hhh) "Transient space marketplace" means an online
6 marketplace through which a person may offer transient
7 accommodations or hotel rooms to individuals. A "transient space
8 marketplace" allows transient accommodations or hotel rooms to be
9 advertised or listed through an online marketplace in exchange for
10 consideration or provides a means for a customer to arrange for the
11 occupancy of the transient accommodation or hotel room in
12 exchange for consideration. A 'transient space marketplace' shall
13 not include an online marketplace operated by or on behalf of a
14 hotel or hotel corporation that facilitates customer occupancy solely
15 for the hotel or hotel corporation's owned or managed hotels and
16 franchisees.

17 (cf: P.L.2018, c.49, s.19)

18

19 8. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 This bill provides that the taxes imposed and authorized by
25 P.L.2018, c.49, do not apply to transient accommodations in
26 counties of the fifth or sixth class (Monmouth, Ocean, Atlantic, and
27 Cape May counties). P.L.2018, c.49, imposed the State sales and
28 use tax and hotel and motel occupancy fee on transient
29 accommodations and authorized various municipal taxes and fees
30 on transient accommodations.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4814 and 4520

STATE OF NEW JERSEY

DATED: MAY 20, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 4814 and 4520.

This committee substitute amends the definition of “transient accommodation” and “transient space marketplace” as they relate to the transient accommodation rental taxes imposed by P.L.2018, c.49.

Pursuant to this bill, a transient accommodation rental will only be subject to taxes if the rental is obtained through a marketplace. A marketplace, online or otherwise, allows accommodations to be listed and provides a means for arranging the rental of the accommodation.

The marketplaces are required to collect and remit the taxes on rentals on behalf of accommodation owners. No one else is required to collect and remit the taxes, as accommodations not obtained through a marketplace are not subject to taxes under the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the bill to result in an indeterminate annual decrease in State revenues because the bill exempts rent charged for the occupancy of a room in a transient accommodation from State sales and use taxes and hotel and motel fees, provided the rental transaction is not executed through a marketplace. The OLS cannot quantify the overall impact of the bill on State and local revenues due to an absence of necessary data and the changing landscape of the transient accommodations market.

Local governments that impose applicable hotel taxes and fees authorized under current law and adopt an ordinance extending the local taxes and fees to transient accommodations, would potentially collect a lower amount of additional revenues under this bill because the taxes and fees would apply to a smaller group of taxable rentals than permitted under current law.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 4814 and 4520**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably Assembly Bill Nos. 4814 and 4520 ACS, with committee amendments.

As amended, this bill makes the various taxes and fees that were extended to transient accommodations in 2018, applicable only to transient accommodations that are obtained through a transient space marketplace or that are professionally managed units. Under current law, all transient accommodations are subject to the taxes and fees, unless an exception applies.

A professionally managed unit is a short term rental that is owned or controlled by someone who owns or controls at least three rental units in the State. A transient space marketplace is a marketplace or travel agency, whether online or not, through which short term rentals may be offered and through which the rental may be arranged and paid for. A marketplace in which someone exclusively offers their own short term rentals is not considered a marketplace and would not be subject to the taxes and fees as long as the short term rentals are not professionally managed units.

As amended, the substitute clarifies that the exception from taxes for transient accommodations whereby the key is provided at the site of a real estate broker only applies if the real estate broker facilitates the rental. The amended substitute also requires that local governments imposing the municipal hotel and motel occupancy tax on transient accommodations provide a list of the transient accommodations located in the municipality to the State Treasurer, as they are required to do for hotels and motels.

COMMITTEE AMENDMENTS:

The committee amended the substitute bill to:

- 1) include “professionally managed units” among the short term rentals that are subject to the taxes;
- 2) clarify that the exclusion from the definition of transient accommodations for short term rentals of furnished or unfurnished private residential property whereby the key is provided at the site of a

real estate broker requires that the real estate broker entirely facilitates the rental;

3) require that local governments imposing the municipal option tax provide a list of the transient accommodations located in the municipality to the State Treasurer.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects an annual decrease in State revenues and a potential decrease in annual local revenues as a result of the bill limiting the categories of transient accommodation rentals on which several State and local government taxes and fees are either imposed or authorized to be imposed. However, the OLS lacks sufficient information to quantify the fiscal impacts.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4814

with Senate Floor Amendments
(Proposed by Senator GOPAL)

ADOPTED: JUNE 20, 2019

These amendments revise and clarify the definition of “transient accommodation” and “transient space marketplace,” and insert a definition for “obtained through a transient space marketplace” to mean contracting and payment for the rental are made through a means provided by a marketplace.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4814
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MAY 1, 2019

SUMMARY

- Synopsis:** Makes transient accommodation taxes and fees only applicable if rented through marketplace.
- Type of Impact:** Annual State revenue loss to General Fund; potential annual revenue loss to local governments.
- Agencies Affected:** Department of the Treasury; Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2019 and Thereafter</u>
State Revenue Decrease	Indeterminate
Potential Local Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) expects the bill to result in an indeterminate annual decrease in State revenues because the bill exempts rent charged for the occupancy of a room in a transient accommodation from State sales and use taxes and hotel and motel fees, provided the rental transaction is not executed through a marketplace. The OLS cannot quantify the overall impact of the bill on State and local revenues due to an absence of necessary data and the changing landscape of the transient accommodations market.
- Local governments that impose applicable hotel taxes and fees authorized under current law and adopt an ordinance extending the local taxes and fees to transient accommodations, would potentially collect a lower amount of additional revenues under this bill because the taxes and fees would apply to a smaller group of taxable rentals than permitted under current law.

BILL DESCRIPTION

The bill amends the definition of “transient accommodation” and “transient space marketplace” as they relate to the transient accommodation rental taxes imposed by P.L.2018, c.49. Pursuant to the bill, a transient accommodation rental will only be subject to taxes if the rental is obtained through a marketplace. A marketplace, online or otherwise, allows accommodations to be listed and provides a means for arranging the rental of the

accommodation. The marketplaces are required to collect and remit the taxes on rentals on behalf of accommodation owners. No other persons or entities are required to collect the taxes, if the transient accommodations are not rented through a marketplace.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects the bill to result in an indeterminate annual decrease in State sales and use tax revenues and State hotel and motel fee revenues, and may potentially decrease local revenues, because the taxes and fees would only be imposed on rent charged for occupancy of a room in a transient accommodation that is obtained through a marketplace. The OLS lacks sufficient data to quantify the magnitude of the revenue loss in the fiscal years following enactment. Current law provides for limited exemptions from the State sales tax and hotel and motel occupancy fees for the occupancy of a room in a transient accommodation at furnished or unfurnished private residential properties that are provided through a real estate broker. The bill further restricts the pool of taxable rentals by excluding rentals not consummated through a marketplace.

Current law allows municipalities to impose, by ordinance, various hotel occupancy taxes and fees. Municipalities that choose to impose these taxes and fees are required to adopt an amended ordinance in order to extend those taxes and fees to the rental of transient accommodations. If this bill is enacted into law, municipalities that choose to extend local hotel taxes and fees to transient accommodations would collect a lower amount of additional revenues because the taxes and fees would apply to a smaller group of taxable rentals than permitted under current law. In its most recent guidance regarding the taxes imposed on charges for the rental of transient accommodations, issued March 1, 2019, the Division of Taxation noted that it had not received any amended municipal ordinances extending local hotel occupancy taxes and fees to transient accommodations.

During the Fiscal Year 2020 budget process, the Department of the Treasury indicated that the State sales tax applied to transient accommodations yielded \$2.3 million through the end of January 2019 and is expected to generate \$8 million in total during Fiscal Year 2019. The hotel and motel occupancy fee yielded approximately \$1 million during that same time period. The OLS notes P.L.2018, c.49 did not become operative until October 1, 2018, and therefore State taxes and fees were not imposed on the rents charged for the occupancy of transient accommodations during the summer, which is the peak of New Jersey's tourism season. The extension of State taxes and fees to transient accommodations is anticipated to generate higher revenues in Fiscal Year 2020 as P.L.2018, c.49 will have been in effect for the entire fiscal year.

Section: Revenue, Finance, and Appropriations

*Analyst: Scott A. Brodsky
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4814 and 4520
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MAY 29, 2019

SUMMARY

- Synopsis:** Makes transient accommodation taxes and fees only applicable if rented through marketplace.
- Type of Impact:** Annual State revenue loss to General Fund; potential annual revenue loss to local governments.
- Agencies Affected:** Department of the Treasury; Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2019 and Thereafter</u>
State Revenue	Indeterminate Decrease
Local Revenue	Indeterminate Potential Decrease

- The Office of Legislative Services (OLS) expects the bill to result in an indeterminate annual decrease in State revenues because the bill exempts rent charged for the occupancy of a room in a transient accommodation from State sales and use taxes and hotel and motel fees, provided the rental transaction is not executed through a transient space marketplace. The OLS cannot quantify the overall impact of the bill on State and local revenues due to an absence of necessary data and the changing landscape of the transient accommodations market.
- Local governments that impose applicable hotel taxes and fees authorized under current law and adopt an ordinance extending the local taxes and fees to transient accommodations, would potentially collect a lower amount of additional revenues under this bill because the taxes and fees would apply to a smaller group of taxable rentals than permitted under current law.

BILL DESCRIPTION

The bill amends the definition of “transient accommodation” and “transient space marketplace” as they relate to the transient accommodation rental taxes imposed by P.L.2018,

c.49. Pursuant to the bill, a transient accommodation rental will only be subject to taxes if the rental is obtained through a transient space marketplace. A transient space marketplace, online or otherwise, allows accommodations to be listed and provides a means for arranging the rental of the accommodation. The marketplaces are required to collect and remit the taxes on rentals on behalf of accommodation owners. No other persons or entities are required to collect the taxes, if the transient accommodations are not rented through a marketplace.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects the bill to result in an indeterminate annual decrease in State sales and use tax revenues and State hotel and motel fee revenues, and may potentially decrease local revenues, because the taxes and fees would only be imposed on rent charged for occupancy of a room in a transient accommodation that is obtained through a marketplace. The OLS lacks sufficient data to quantify the magnitude of the revenue loss in the fiscal years following enactment. Current law provides for limited exemptions from the State sales tax and hotel and motel occupancy fees for the occupancy of a room in a transient accommodation at furnished or unfurnished private residential properties that are provided through a real estate broker. The bill further restricts the pool of taxable rentals by excluding rentals not consummated through a marketplace.

Current law allows municipalities to impose, by ordinance, various hotel occupancy taxes and fees. Municipalities that choose to impose these taxes and fees are required to adopt an amended ordinance in order to extend those taxes and fees to the rental of transient accommodations. If this bill is enacted into law, municipalities that choose to extend local hotel taxes and fees to transient accommodations would collect a lower amount of additional revenues because the taxes and fees would apply to a smaller group of taxable rentals than permitted under current law. In its most recent guidance regarding the taxes imposed on charges for the rental of transient accommodations, issued March 1, 2019, the Division of Taxation noted that it had not received any amended municipal ordinances extending local hotel occupancy taxes and fees to transient accommodations.

During the Fiscal Year 2020 budget process, the Department of the Treasury indicated that the State sales tax applied to transient accommodations yielded \$2.3 million through the end of January 2019 and is expected to generate \$8 million in total during Fiscal Year 2019. The hotel and motel occupancy fee yielded approximately \$1 million on transient accommodations during that same time period. The OLS notes P.L.2018, c.49 did not become operative until October 1, 2018, and therefore State taxes and fees were not imposed on the rents charged for the occupancy of transient accommodations during the summer, which is the peak of New Jersey's tourism season. The extension of State taxes and fees to transient accommodations is anticipated to generate higher revenues in Fiscal Year 2020 as P.L.2018, c.49 will have been in effect for the entire fiscal year.

Section: Local Government

*Analyst: Joseph A. Pezzulo
Associate Research Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4814 and 4520
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JULY 15, 2019

SUMMARY

- Synopsis:** Makes transient accommodation taxes and fees only applicable if it is obtained through a marketplace or if it is a professionally managed unit.
- Type of Impact:** Annual State revenue loss to General Fund; potential annual revenue loss to local governments.
- Agencies Affected:** Department of the Treasury; Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Revenue	Indeterminate Decrease
Local Revenue	Indeterminate Potential Decrease

- The Office of Legislative Services (OLS) expects an annual decrease in State revenues and a potential annual decrease in local revenues as a result of the bill limiting the categories of transient accommodation rentals on which several State and local government taxes and fees are either imposed or authorized to be imposed. However, the OLS lacks sufficient information to quantify the fiscal impacts.

BILL DESCRIPTION

This bill narrows the scope of P.L.2018, c.49, which extended certain State and optional local government taxes and fees imposed on charges for a hotel room to rentals of certain other hotel-like transient accommodations. Newly taxable transient accommodations included rentals made through transient space marketplaces as well as rentals that are made directly by the homeowner, for example, through classified listing sites, local newspaper ads, referrals from friends or family, or placing a sign on the home. The bill limits newly taxable transient accommodation rentals to rentals of professionally managed units and rentals obtained through a transient space

marketplace or travel agency, as long as the transient space marketplace or travel agency does not exclusively offer transient accommodations owned by the marketplace or travel agency.

As of October 1, 2018, the State collects the State sales and use tax, the State hotel and motel occupancy fee, and the Meadowlands regional hotel use assessment on charges associated with the rental of hotel-like transient accommodations. Certain municipalities are also authorized to impose the following taxes on those charges: the municipal occupancy tax, the sports and entertainment facility tax - Millville, the Atlantic City luxury tax, the Atlantic City promotion fee, the Cape May County tourism tax and assessment, and the hotel occupancy tax.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS expects the bill to annually decrease State revenues and potentially decrease annual local revenues. Specifically, the bill limits the categories of transient accommodation rentals on which several State and local government taxes and fees either are imposed or may be imposed. As a result, the bill is expected to lower State revenue by reducing the number of taxable transient accommodation rentals throughout the State. However, the OLS lacks sufficient data to predict the number of transient accommodation rentals that would be newly exempt from taxation under the bill. The OLS, therefore, cannot quantify the fiscal impact of the bill.

Current law allows certain municipalities to impose various hotel occupancy taxes and fees. Municipalities that choose to impose these taxes and fees may extend them to generally taxable categories of hotel-like transient accommodation rentals. If this bill is enacted into law, municipalities that choose to extend local hotel taxes and fees to hotel-like transient accommodations would collect a lower amount of additional revenues because the taxes and fees would apply to a smaller number of taxable rentals than permitted under current law. In its most recent guidance regarding the taxes imposed on charges for the rental of hotel-like transient accommodations, issued March 1, 2019, the Division of Taxation noted that it had not received any notice from municipalities extending local hotel occupancy taxes and fees to hotel-like transient accommodations.

During the FY 2020 budget process, the Department of the Treasury indicated that the State sales and use tax applied to hotel-like transient accommodations yielded \$2.3 million through the end of January 2019 and was expected to generate \$8 million in total during FY 2019. Hotel-like transient accommodations increased hotel and motel occupancy fee collections by about \$1 million during that same time period. The OLS notes that hotel-like transient accommodations did not become taxable until October 1, 2018, and therefore were tax-exempt during the summer of 2018, with summer being the peak of New Jersey's tourism season. Hotel-like transient accommodations can be anticipated to generate higher revenues in FY 2020, as P.L.2018, c.49 will be in effect for the entire fiscal year, including the peak summer season.

Section: Local Government

Analyst: Joseph A. Pezzulo
Associate Research Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3158

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senator O'Scanlon

SYNOPSIS

Makes transient accommodation taxes and fees only applicable if rented through marketplace.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2019)

1 AN ACT concerning transient accommodation taxes and fees,
2 amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to read
8 as follows:

9 84. As used in sections 82 through 85 of P.L.2015, c.19
10 (C.5:10A-82 et seq.):

11 "Commission" means the New Jersey Sports and Exposition
12 Authority, which may be referred to as the "Meadowlands Regional
13 Commission," as established by section 6 of P.L.2015, c.19
14 (C.5:10A-6).

15 "Constituent municipality" means any of the following
16 municipalities: Carlstadt, East Rutherford, Little Ferry, Lyndhurst,
17 Moonachie, North Arlington, Ridgefield, Rutherford, South
18 Hackensack, and Teterboro in Bergen county; and Jersey City,
19 Kearny, North Bergen, and Secaucus in Hudson county.

20 "Meadowlands district" means the Hackensack Meadowlands
21 District, the area delineated within section 5 of P.L.2015, c.19
22 (C.5:10A-5).

23 "Public venue" means any place located within the Meadowlands
24 district, whether publicly or privately owned, where any facilities
25 for entertainment, amusement, or sports are provided, but shall not
26 include a movie theater.

27 "Public event" means any spectator sporting event, trade show,
28 exposition, concert, amusement, or other event open to the public
29 that takes place at a public venue, but shall not include a major
30 league football game.

31 "Residence" means a house, condominium, or other residential
32 dwelling unit in a building or structure or part of a building or
33 structure that is designed, constructed, leased, rented, let or hired
34 out, or otherwise made available for use as a residence.

35 "Transient accommodation" means a room, group of rooms, or
36 other living or sleeping space for the lodging of occupants, if
37 obtained through a transient space marketplace, including but not
38 limited to residences or buildings used as residences. "Transient
39 accommodation" does not include: a hotel or hotel room; a room,
40 group of rooms, or other living or sleeping space used as a place of
41 assembly; a dormitory or other similar residential facility of an
42 elementary or secondary school or a college or university; a
43 hospital, nursing home, or other similar residential facility of a
44 provider of services for the care, support and treatment of
45 individuals that is licensed by the State; a campsite, cabin, lean-to,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or other similar residential facility of a campground or an adult or
2 youth camp; a furnished or unfurnished private residential property,
3 including but not limited to condominiums, bungalows, single-
4 family homes and similar living units, where no maid service, room
5 service, linen changing service or other common hotel services are
6 made available by the lessor and where the keys to the furnished or
7 unfurnished private residential property, whether a physical key,
8 access to a keyless locking mechanism, or other means of physical
9 ingress to the furnished or unfurnished private residential property,
10 are provided to the lessee at the location of an offsite real estate
11 broker licensed by the New Jersey Real Estate Commission
12 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
13 term of at least 90 consecutive days.

14 "Transient space marketplace" means **[an online]** a marketplace
15 through which a person may offer transient accommodations or
16 hotel rooms to individuals. A "transient space marketplace" allows
17 transient accommodations or hotel rooms to be advertised or listed
18 through **[an online]** a marketplace in exchange for consideration
19 **[or]** and provides a means for a customer to arrange for the
20 occupancy of the transient accommodation or hotel room in
21 exchange for consideration. A 'transient space marketplace' shall
22 not include **[an online]** a marketplace operated by or on behalf of a
23 hotel or hotel corporation that facilitates customer occupancy solely
24 for the hotel or hotel corporation's owned or managed hotels and
25 franchisees, and shall not include a travel agency or an online travel
26 agency.

27 (cf: P.L.2018, c.132, s.4)

28

29 2. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
30 read as follows:

31 3. As used in this act:

32 "Authority" means the New Jersey Economic Development
33 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
34 seq.).

35 "Developer" means any person or entity, whether public or
36 private, including a State entity, that proposes to undertake a project
37 pursuant to a development agreement.

38 "District" or "sports and entertainment district" means a
39 geographic area which includes a project as set forth in the
40 ordinance pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

41 "Eligible municipality" means a municipality: (1) in which is
42 located part of an urban enterprise zone that has been designated
43 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
44 supplement thereto; and (2) which has a population greater than
45 25,000 and less than 29,000 according to the latest federal decennial
46 census in a county of the third class with a population density
47 greater than 295 and less than 304 persons per square mile
48 according to the latest federal decennial census.

1 "Infrastructure improvements" means the construction or
2 rehabilitation of any street, highway, utility, transportation or
3 parking facilities, or other similar improvements; the acquisition of
4 any interest in land as necessary or convenient for the acquisition of
5 any right-of-way or other easement for the purpose of constructing
6 infrastructure improvements; the acquisition, construction or
7 reconstruction of land and site improvements, including demolition,
8 clearance, removal, construction, reconstruction, fill, environmental
9 enhancement or abatement, or other site preparation for
10 development of a sports and entertainment district.

11 "Project" means a sports and entertainment facility and may
12 include infrastructure improvements that are associated with the
13 sports and entertainment facility.

14 "Project cost" means the cost of a project, including the
15 financing, acquisition, development, construction, redevelopment,
16 rehabilitation, reconstruction and improvement costs thereof,
17 financing costs and the administrative costs, including any
18 administrative costs of the authority if bonds are issued pursuant to
19 section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in
20 connection with a sports and entertainment facility which is
21 financed, in whole or in part, by the revenues dedicated by a
22 municipality to a project as authorized pursuant to section 5 of
23 P.L.2007, c.30 (C.34:1B-194).

24 "Residence" means a house, condominium, or other residential
25 dwelling unit in a building or structure or part of a building or
26 structure that is designed, constructed, leased, rented, let or hired
27 out, or otherwise made available for use as a residence.

28 "Sports and entertainment facility" means any privately or
29 publicly owned or operated facility located in a sports and
30 entertainment district that is used primarily for sports contests,
31 entertainment, or both, such as a theater, stadium, museum, arena,
32 automobile racetrack, or other place where performances, concerts,
33 exhibits, games or contests are held.

34 "State Treasurer" or "treasurer" means the treasurer of the State
35 of New Jersey.

36 "Transient accommodation" means a room, group of rooms, or
37 other living or sleeping space for the lodging of occupants, if
38 obtained through a transient space marketplace, including but not
39 limited to residences or buildings used as residences. "Transient
40 accommodation" does not include: a hotel or hotel room; a room,
41 group of rooms, or other living or sleeping space used as a place of
42 assembly; a dormitory or other similar residential facility of an
43 elementary or secondary school or a college or university; a
44 hospital, nursing home, or other similar residential facility of a
45 provider of services for the care, support and treatment of
46 individuals that is licensed by the State; a campsite, cabin, lean-to,
47 or other similar residential facility of a campground or an adult or
48 youth camp; a furnished or unfurnished private residential property,

1 including but not limited to condominiums, bungalows, single-
2 family homes and similar living units, where no maid service, room
3 service, linen changing service or other common hotel services are
4 made available by the lessor and where the keys to the furnished or
5 unfurnished private residential property, whether a physical key,
6 access to a keyless locking mechanism, or other means of physical
7 ingress to the furnished or unfurnished private residential property,
8 are provided to the lessee at the location of an offsite real estate
9 broker licensed by the New Jersey Real Estate Commission
10 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
11 term of at least 90 consecutive days.

12 "Transient space marketplace" means **[an online]** a marketplace
13 through which a person may offer transient accommodations or
14 hotel rooms to individuals. A "transient space marketplace" allows
15 transient accommodations or hotel rooms to be advertised or listed
16 through **[an online]** a marketplace in exchange for consideration
17 **[or]** and provides a means for a customer to arrange for the
18 occupancy of the transient accommodation or hotel room in
19 exchange for consideration. A 'transient space marketplace' shall
20 not include **[an online]** a marketplace operated by or on behalf of a
21 hotel or hotel corporation that facilitates customer occupancy solely
22 for the hotel or hotel corporation's owned or managed hotels and
23 franchisees, and shall not include a travel agency or an online travel
24 agency.

25 (cf: P.L.2018, c.132, s.5)

26

27 3. Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended to read
28 as follows:

29 2. As used in this act:

30 "Retail sale" or "sale at retail" means and includes:

31 (1) Any sale in the ordinary course of business for consumption
32 of whiskey, beer or other alcoholic beverages by the drink in
33 restaurants, cafes, bars, hotels and other similar establishments;

34 (2) Any cover charge, minimum charge, entertainment, or other
35 similar charge made to any patron of any restaurant, cafe, bar, hotel
36 or other similar establishment;

37 (3) The hiring, with or without service, of any room in any
38 hotel, transient accommodation, inn, rooming or boarding house;

39 (4) The hiring of any rolling chair, beach chair or cabana; and

40 (5) The granting or sale of any ticket, license or permit for
41 admission to any theatre, moving picture exhibition or show, pier,
42 exhibition, or place of amusement, except charges for admission to
43 boxing, wrestling, kick boxing or combative sports events, matches,
44 or exhibitions, which charges are taxed pursuant to section 20 of
45 P.L.1985, c.83 (C.5:2A-20).

46 "Vendor" means any person selling or hiring property or services
47 to another person upon the receipts from which a tax is imposed.

1 "Purchaser" means any person purchasing or hiring property or
2 services from another person, the receipts from which are taxable.

3 "Residence" means a house, condominium, or other residential
4 dwelling unit in a building or structure or part of a building or
5 structure that is designed, constructed, leased, rented, let or hired
6 out, or otherwise made available for use as a residence.

7 "Transient accommodation" means a room, group of rooms, or
8 other living or sleeping space for the lodging of occupants, if
9 obtained through a transient space marketplace, including but not
10 limited to residences or buildings used as residences. "Transient
11 accommodation" does not include: a hotel or hotel room; a room,
12 group of rooms, or other living or sleeping space used as a place of
13 assembly; a dormitory or other similar residential facility of an
14 elementary or secondary school or a college or university; a
15 hospital, nursing home, or other similar residential facility of a
16 provider of services for the care, support and treatment of
17 individuals that is licensed by the State; a campsite, cabin, lean-to,
18 or other similar residential facility of a campground or an adult or
19 youth camp; a furnished or unfurnished private residential property,
20 including but not limited to condominiums, bungalows, single-
21 family homes and similar living units, where no maid service, room
22 service, linen changing service or other common hotel services are
23 made available by the lessor and where the keys to the furnished or
24 unfurnished private residential property, whether a physical key,
25 access to a keyless locking mechanism, or other means of physical
26 ingress to the furnished or unfurnished private residential property,
27 are provided to the lessee at the location of an offsite real estate
28 broker licensed by the New Jersey Real Estate Commission
29 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
30 term of at least 90 consecutive days.

31 "Transient space marketplace" means **[an online]** a marketplace
32 through which a person may offer transient accommodations or
33 hotel rooms to individuals. A "transient space marketplace" allows
34 transient accommodations or hotel rooms to be advertised or listed
35 through **[an online]** a marketplace in exchange for consideration
36 **[or]** and provides a means for a customer to arrange for the
37 occupancy of the transient accommodation or hotel room in
38 exchange for consideration. A 'transient space marketplace' shall
39 not include **[an online]** a marketplace operated by or on behalf of a
40 hotel or hotel corporation that facilitates customer occupancy solely
41 for the hotel or hotel corporation's owned or managed hotels and
42 franchisees, and shall not include a travel agency or an online travel
43 agency.

44 (cf: P.L.2018, c.132, s.6)

45

46 4. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to
47 read as follows:

48 1. As used in this act:

- 1 a. "Convention center operating authority" means, in the case
2 of any eligible municipality, the public authority or other
3 governmental entity empowered to operate convention hall and the
4 convention center facilities in the eligible municipality.
- 5 b. "Director" means the Director of the Division of Taxation in
6 the Department of the Treasury.
- 7 c. "Eligible municipality" means any municipality in which any
8 portion of the proceeds of a retail sales tax levied by ordinance
9 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
10 (C.40:48-8.15) is applied as authorized by law to the payment of
11 costs of convention center facilities located in the municipality.
- 12 d. "Hotel" means a building or a portion of a building which is
13 regularly used and kept open as such for the lodging of guests.
14 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
15 boarding house or club, whether or not meals are served, but does
16 not include a transient accommodation.
- 17 e. "Occupied room" means a room or rooms of any kind in any
18 part of a hotel or transient accommodation, other than a place of
19 assembly, which is used or possessed by a guest or guests, whether
20 or not for consideration.
- 21 f. "Residence" means a house, condominium, or other
22 residential dwelling unit in a building or structure or part of a
23 building or structure that is designed, constructed, leased, rented, let
24 or hired out, or otherwise made available for use as a residence.
- 25 g. "Transient accommodation" means a room, group of rooms,
26 or other living or sleeping space for the lodging of occupants, if
27 obtained through a transient space marketplace, including but not
28 limited to residences or buildings used as residences. "Transient
29 accommodation" does not include: a hotel or hotel room; a room,
30 group of rooms, or other living or sleeping space used as a place of
31 assembly; a dormitory or other similar residential facility of an
32 elementary or secondary school or a college or university; a
33 hospital, nursing home, or other similar residential facility of a
34 provider of services for the care, support and treatment of
35 individuals that is licensed by the State; a campsite, cabin, lean-to,
36 or other similar residential facility of a campground or an adult or
37 youth camp; a furnished or unfurnished private residential property,
38 including but not limited to condominiums, bungalows, single-
39 family homes and similar living units, where no maid service, room
40 service, linen changing service or other common hotel services are
41 made available by the lessor and where the keys to the furnished or
42 unfurnished private residential property, whether a physical key,
43 access to a keyless locking mechanism, or other means of physical
44 ingress to the furnished or unfurnished private residential property,
45 are provided to the lessee at the location of an offsite real estate
46 broker licensed by the New Jersey Real Estate Commission
47 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
48 term of at least 90 consecutive days.

1 h. "Transient space marketplace" means **[an online]** a
2 marketplace through which a person may offer transient
3 accommodations or hotel rooms to individuals. A "transient space
4 marketplace" allows transient accommodations or hotel rooms to be
5 advertised or listed through **[an online]** a marketplace in exchange
6 for consideration **[or]** and provides a means for a customer to
7 arrange for the occupancy of the transient accommodation or hotel
8 room in exchange for consideration. A 'transient space marketplace'
9 shall not include **[an online]** a marketplace operated by or on
10 behalf of a hotel or hotel corporation that facilitates customer
11 occupancy solely for the hotel or hotel corporation's owned or
12 managed hotels and franchisees, and shall not include a travel
13 agency or an online travel agency.
14 (cf: P.L.2018, c.132, s.7)

15
16 5. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
17 as follows:

18 2. As used in this act "hotel" means a building or portion of a
19 building which is regularly used and kept open as such for the
20 lodging of guests. "Hotel" includes an apartment hotel, a motel, inn,
21 and rooming or boarding house or club, whether or not meals are
22 served, but does not include a transient accommodation.

23 "Residence" means a house, condominium, or other residential
24 dwelling unit in a building or structure or part of a building or
25 structure that is designed, constructed, leased, rented, let or hired
26 out, or otherwise made available for use as a residence.

27 "Transient accommodation" means a room, group of rooms, or
28 other living or sleeping space for the lodging of occupants, if
29 obtained through a transient space marketplace, including but not
30 limited to residences or buildings used as residences. "Transient
31 accommodation" does not include: a hotel or hotel room; a room,
32 group of rooms, or other living or sleeping space used as a place of
33 assembly; a dormitory or other similar residential facility of an
34 elementary or secondary school or a college or university; a
35 hospital, nursing home, or other similar residential facility of a
36 provider of services for the care, support and treatment of
37 individuals that is licensed by the State; a campsite, cabin, lean-to,
38 or other similar residential facility of a campground or an adult or
39 youth camp; a furnished or unfurnished private residential property,
40 including but not limited to condominiums, bungalows, single-
41 family homes and similar living units, where no maid service, room
42 service, linen changing service or other common hotel services are
43 made available by the lessor and where the keys to the furnished or
44 unfurnished private residential property, whether a physical key,
45 access to a keyless locking mechanism, or other means of physical
46 ingress to the furnished or unfurnished private residential property,
47 are provided to the lessee at the location of an offsite real estate
48 broker licensed by the New Jersey Real Estate Commission

1 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
2 term of at least 90 consecutive days.

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6 transient accommodations or hotel rooms to be advertised or listed
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8 **[or]** and provides a means for a customer to arrange for the
9 occupancy of the transient accommodation or hotel room in
10 exchange for consideration. A 'transient space marketplace' shall
11 not include **[an online]** a marketplace operated by or on behalf of a
12 hotel or hotel corporation that facilitates customer occupancy solely
13 for the hotel or hotel corporation's owned or managed hotels and
14 franchisees, and shall not include a travel agency or an online travel
15 agency.

16 (cf: P.L.2018, c.132, s.8)

17

18 6. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to read
19 as follows:

20 3. As used in this act:

21 "Authority" means a tourism improvement and development
22 authority created pursuant to section 18 of this act, P.L.1992, c.165
23 (C.40:54D-18).

24 "Beach operation offset payment " means a payment made by an
25 authority to municipalities in its district for tourism development
26 activities related to operating and maintaining public beaches within
27 a zone to seaward of a line of demarcation located not more than
28 1,000 feet from the mean high water line.

29 "Bond" means any bond or note issued by an authority pursuant
30 to the provisions of this act.

31 "Commissioner" means the Commissioner of the Department of
32 Commerce and Economic Development.

33 "Construction" means the planning, designing, construction,
34 reconstruction, rehabilitation, replacement, repair, extension,
35 enlargement, improvement and betterment of a project, and includes
36 the demolition, clearance and removal of buildings or structures on
37 land acquired, held, leased or used for a project.

38 "Convention center facility" means any convention hall or center
39 or like structure or building, and shall include all facilities,
40 including commercial, office, community service, parking facilities
41 and all property rights, easements and interests, and other facilities
42 constructed for the accommodation and entertainment of tourists
43 and visitors, constructed in conjunction with a convention center
44 facility and forming reasonable appurtenances thereto but does not
45 mean the Wildwood convention center facility as defined in this
46 section.

47 "Tourism project" means the convention center facility or
48 outdoor special events arena, or both, located in the territorial limits

1 of the district, and any costs associated therewith but does not mean
2 the Wildwood convention center facility as defined in this section.

3 "Cost" means all or any part of the expenses incurred in
4 connection with the acquisition, construction and maintenance of
5 any real property, lands, structures, real or personal property rights,
6 rights-of-way, franchises, easements, and interests acquired or used
7 for a project; any financing charges and reserves for the payment of
8 principal and interest on bonds or notes; the expenses of
9 engineering, appraisal, architectural, accounting, financial and legal
10 services; and other expenses as may be necessary or incident to the
11 acquisition, construction and maintenance of a project, the
12 financing thereof and the placing of the project into operation.

13 "County" means a county of the sixth class.

14 "Director" means the Director of the Division of Taxation in the
15 Department of the Treasury.

16 "Fund" means a Reserve Fund created pursuant to section 13 of
17 P.L.1992, c.165 (C.40:54D-13).

18 "Outdoor special events arena" means a facility or structure for
19 the holding outdoors of public events, entertainments, sporting
20 events, concerts or similar activities, and shall include all facilities,
21 property rights and interests, and all appurtenances reasonably
22 related thereto, constructed for the accommodation and
23 entertainment of tourists and visitors.

24 "Participant amusement" means a sporting activity or amusement
25 the charge for which is exempt from taxation under the "Sales and
26 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the
27 participation of the patron in the activity or amusement, such as
28 bowling alleys, swimming pools, water slides, miniature golf,
29 boardwalk or carnival games and amusements, baseball batting
30 cages, tennis courts, and fishing and sightseeing boats.

31 "Predominantly tourism related retail receipts" means:

32 a. The rent for every occupancy of a room or rooms in a hotel
33 or transient accommodation subject to taxation pursuant to
34 subsection (d) of section 3 of the "Sales and Use Tax Act,"
35 P.L.1966, c.30 (C.54:32B-3);

36 b. Receipts from the sale of food and drink in or by restaurants,
37 taverns, or other establishments in the district, or by caterers,
38 including in the amount of such receipt any cover, minimum,
39 entertainment or other charge made to patrons or customers, subject
40 to taxation pursuant to subsection (c) of section 3 of the "Sales and
41 Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts
42 from sales of food and beverages sold through coin operated
43 vending machines; and

44 c. Admissions charges to or the use of any place of amusement
45 or of any roof garden, cabaret or similar place, subject to taxation
46 pursuant to subsection (e) of section 3 of the "Sales and Use Tax
47 Act," P.L.1966, c.30 (C.54:32B-3).

1 "Purchaser" means any person purchasing or hiring property or
2 services from another person, the receipts or charges from which
3 are taxable by an ordinance authorized under P.L.1992, c.165
4 (C.40:54D-1 et seq.).

5 "Residence" means a house, condominium, or other residential
6 dwelling unit in a building or structure or part of a building or
7 structure that is designed, constructed, leased, rented, let or hired
8 out, or otherwise made available for use as a residence.

9 "Sports authority" means the New Jersey Sports and Exposition
10 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et
11 seq.).

12 "Tourism" means activities involved in providing and marketing
13 services and products, including accommodations, for nonresidents
14 and residents who travel to and in New Jersey for recreation and
15 pleasure.

16 "Tourism assessment" means an assessment on the rent for every
17 occupancy of a room or rooms in a hotel or transient
18 accommodation subject to taxation pursuant to subsection (d) of
19 section 3 of the "Sales and Use Tax Act," P.L.1966, c.30
20 (C.54:32B-3).

21 "Tourism development activities" include operations of the
22 authority to carry out its statutory duty to promote, advertise and
23 market the district, including making beach operation offset
24 payments.

25 "Tourism development fee" means a fee imposed by ordinance
26 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

27 "Tourism improvement and development district" or "district"
28 means an area within two or more contiguous municipalities within
29 a county of the sixth class established pursuant to ordinance enacted
30 by those municipalities, for the purposes of promoting the
31 acquisition, construction, maintenance, operation and support of a
32 tourism project, and to devote the revenue and the proceeds from
33 taxes upon predominantly tourism related retail receipts and from
34 tourism development fees to the purposes as herein defined.

35 "Tourist industry" means the industry consisting of private and
36 public organizations which directly or indirectly provide services
37 and products to nonresidents and residents who travel to and in New
38 Jersey for recreation and pleasure.

39 "Tourism lodging" means any dwelling unit, other than a
40 dwelling unit in a hotel the rent for which is subject to taxation
41 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et
42 seq.), regardless of the form of ownership of the unit, rented with or
43 without a lease, whether rented by the owner or by an agent for the
44 owner.

45 "Transient accommodation" means a room, group of rooms, or
46 other living or sleeping space for the lodging of occupants, if
47 obtained through a transient space marketplace, including but not
48 limited to residences or buildings used as residences. "Transient

1 accommodation" does not include: a hotel or hotel room; a room,
2 group of rooms, or other living or sleeping space used as a place of
3 assembly; a dormitory or other similar residential facility of an
4 elementary or secondary school or a college or university; a
5 hospital, nursing home, or other similar residential facility of a
6 provider of services for the care, support and treatment of
7 individuals that is licensed by the State; a campsite, cabin, lean-to,
8 or other similar residential facility of a campground or an adult or
9 youth camp; a furnished or unfurnished private residential property,
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12 service, linen changing service or other common hotel services are
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16 ingress to the furnished or unfurnished private residential property,
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19 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
20 term of at least 90 consecutive days.

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27 occupancy of the transient accommodation or hotel room in
28 exchange for consideration. A 'transient space marketplace' shall
29 not include **[an online]** a marketplace operated by or on behalf of a
30 hotel or hotel corporation that facilitates customer occupancy solely
31 for the hotel or hotel corporation's owned or managed hotels and
32 franchisees, and shall not include a travel agency or an online travel
33 agency.

34 "Vendor" means a person selling or hiring property or services to
35 another person, the receipts or charges from which are taxable by an
36 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

37 "Wildwood convention center facility" means the project
38 authorized by paragraph (12) of subsection a. of section 6 of
39 P.L.1971, c.137 (C.5:10-6).
40 (cf: P.L.2018, c.132, s.9)

41

42 7. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read
43 as follows:

44 2. Unless the context in which they occur requires otherwise,
45 the following terms when used in this act shall mean:

46 (a) "Person" includes an individual, trust, partnership, limited
47 partnership, limited liability company, society, association, joint
48 stock company, corporation, public corporation or public authority,

1 estate, receiver, trustee, assignee, referee, fiduciary and any other
2 legal entity.

3 (b) "Purchase at retail" means a purchase by any person at a
4 retail sale.

5 (c) "Purchaser" means a person to whom a sale of personal
6 property is made or to whom a service is furnished.

7 (d) "Receipt" means the amount of the sales price of any
8 tangible personal property, specified digital product or service
9 taxable under this act.

10 (e) "Retail sale" means any sale, lease, or rental for any purpose,
11 other than for resale, sublease, or subrent.

12 (1) For the purposes of this act a sale is for "resale, sublease, or
13 subrent" if it is a sale (A) for resale either as such or as converted
14 into or as a component part of a product produced for sale by the
15 purchaser, including the conversion of natural gas into another
16 intermediate or end product, other than electricity or thermal
17 energy, produced for sale by the purchaser, (B) for use by that
18 person in performing the services subject to tax under subsection
19 (b) of section 3 where the property so sold becomes a physical
20 component part of the property upon which the services are
21 performed or where the property so sold is later actually transferred
22 to the purchaser of the service in conjunction with the performance
23 of the service subject to tax, (C) of telecommunications service to a
24 telecommunications service provider for use as a component part of
25 telecommunications service provided to an ultimate customer, or
26 (D) to a person who receives by contract a product transferred
27 electronically for further commercial broadcast, rebroadcast,
28 transmission, retransmission, licensing, relicensing, distribution,
29 redistribution or exhibition of the product, in whole or in part, to
30 another person, other than rights to redistribute based on statutory
31 or common law doctrine such as fair use.

32 (2) For the purposes of this act, the term "retail sale" includes:
33 sales of tangible personal property to all contractors, subcontractors
34 or repairmen of materials and supplies for use by them in erecting
35 structures for others, or building on, or otherwise improving,
36 altering, or repairing real property of others.

37 (3) (Deleted by amendment, P.L.2005, c.126).

38 (4) The term "retail sale" does not include:

39 (A) Professional, insurance, or personal service transactions
40 which involve the transfer of tangible personal property as an
41 inconsequential element, for which no separate charges are made.

42 (B) The transfer of tangible personal property to a corporation,
43 solely in consideration for the issuance of its stock, pursuant to a
44 merger or consolidation effected under the laws of New Jersey or
45 any other jurisdiction.

46 (C) The distribution of property by a corporation to its
47 stockholders as a liquidating dividend.

- 1 (D) The distribution of property by a partnership to its partners
2 in whole or partial liquidation.
- 3 (E) The transfer of property to a corporation upon its
4 organization in consideration for the issuance of its stock.
- 5 (F) The contribution of property to a partnership in
6 consideration for a partnership interest therein.
- 7 (G) The sale of tangible personal property where the purpose of
8 the vendee is to hold the thing transferred as security for the
9 performance of an obligation of the seller.
- 10 (f) "Sale, selling or purchase" means any transfer of title or
11 possession or both, exchange or barter, rental, lease or license to
12 use or consume, conditional or otherwise, in any manner or by any
13 means whatsoever for a consideration, or any agreement therefor,
14 including the rendering of any service, taxable under this act, for a
15 consideration or any agreement therefor.
- 16 (g) "Tangible personal property" means personal property that
17 can be seen, weighed, measured, felt, or touched, or that is in any
18 other manner perceptible to the senses. "Tangible personal
19 property" includes electricity, water, gas, steam, and prewritten
20 computer software including prewritten computer software
21 delivered electronically.
- 22 (h) "Use" means the exercise of any right or power over tangible
23 personal property, specified digital products, services to property or
24 products, or services by the purchaser thereof and includes, but is
25 not limited to, the receiving, storage or any keeping or retention for
26 any length of time, withdrawal from storage, any distribution, any
27 installation, any affixation to real or personal property, or any
28 consumption of such property or products. Use also includes the
29 exercise of any right or power over intrastate or interstate
30 telecommunications and prepaid calling services. Use also includes
31 the exercise of any right or power over utility service. Use also
32 includes the derivation of a direct or indirect benefit from a service.
- 33 (i) "Seller" means a person making sales, leases or rentals of
34 personal property or services.
- 35 (1) The term "seller" includes:
- 36 (A) A person making sales, leases or rentals of tangible personal
37 property, specified digital products or services, the receipts from
38 which are taxed by this act;
- 39 (B) A person maintaining a place of business in the State or
40 having an agent maintaining a place of business in the State and
41 making sales, whether at such place of business or elsewhere, to
42 persons within the State of tangible personal property, specified
43 digital products or services, the use of which is taxed by this act;
- 44 (C) A person who solicits business either by employees,
45 independent contractors, agents or other representatives or by
46 distribution of catalogs or other advertising matter and by reason
47 thereof makes sales to persons within the State of tangible personal

1 property, specified digital products or services, the use of which is
2 taxed by this act.

3 A person making sales of tangible personal property, specified
4 digital products, or services taxable under the "Sales and Use Tax
5 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
6 soliciting business through an independent contractor or other
7 representative if the person making sales enters into an agreement
8 with an independent contractor having physical presence in this
9 State or other representative having physical presence in this State,
10 for a commission or other consideration, under which the
11 independent contractor or representative directly or indirectly refers
12 potential customers, whether by a link on an internet website or
13 otherwise, and the cumulative gross receipts from sales to
14 customers in this State who were referred by all independent
15 contractors or representatives that have this type of an agreement
16 with the person making sales are in excess of \$10,000 during the
17 preceding four quarterly periods ending on the last day of March,
18 June, September, and December. This presumption may be rebutted
19 by proof that the independent contractor or representative with
20 whom the person making sales has an agreement did not engage in
21 any solicitation in the State on behalf of the person that would
22 satisfy the nexus requirements of the United States Constitution
23 during the four quarterly periods in question. Nothing in this
24 subparagraph shall be construed to narrow the scope of the terms
25 independent contractor or other representative for purposes of any
26 other provision of the "Sales and Use Tax Act," P.L.1966, c.30
27 (C.54:32B-1 et seq.);

28 (D) Any other person making sales to persons within the State of
29 tangible personal property, specified digital products or services,
30 the use of which is taxed by this act, who may be authorized by the
31 director to collect the tax imposed by this act;

32 (E) The State of New Jersey, any of its agencies,
33 instrumentalities, public authorities, public corporations (including
34 a public corporation created pursuant to agreement or compact with
35 another state) or political subdivisions when such entity sells
36 services or property of a kind ordinarily sold by private persons;

37 (F) (Deleted by amendment, P.L.2005, c.126);

38 (G) A person who sells, stores, delivers or transports energy to
39 users or customers in this State whether by mains, lines or pipes
40 located within this State or by any other means of delivery;

41 (H) A person engaged in collecting charges in the nature of
42 initiation fees, membership fees or dues for access to or use of the
43 property or facilities of a health and fitness, athletic, sporting or
44 shopping club or organization;

45 (I) A person engaged in the business of parking, storing or
46 garaging motor vehicles;

47 (J) A person making sales, leases, or rentals of tangible personal
48 property, specified digital products, or taxable services who meets

1 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,
2 c.132 (C.54:32B-3.5); and

3 (K) A marketplace facilitator.

4 (2) In addition, when in the opinion of the director it is
5 necessary for the efficient administration of this act to treat any
6 salesman, representative, peddler or canvasser as the agent of the
7 seller, distributor, supervisor or employer under whom the agent
8 operates or from whom the agent obtains tangible personal property
9 or a specified digital product sold by the agent or for whom the
10 agent solicits business, the director may, in the director's discretion,
11 treat such agent as the seller jointly responsible with the agent's
12 principal, distributor, supervisor or employer for the collection and
13 payment over of the tax. A person is an agent of a seller in all
14 cases, but not limited to such cases, that: (A) the person and the
15 seller have the relationship of a "related person" described pursuant
16 to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller
17 and the person use an identical or substantially similar name,
18 tradename, trademark, or goodwill, to develop, promote, or
19 maintain sales, or the person and the seller pay for each other's
20 services in whole or in part contingent upon the volume or value of
21 sales, or the person and the seller share a common business plan or
22 substantially coordinate their business plans, or the person provides
23 services to, or that inure to the benefit of, the seller related to
24 developing, promoting, or maintaining the seller's market.

25 (3) Notwithstanding any other provision of law or
26 administrative action to the contrary, transient space marketplaces
27 shall be required to collect and pay on behalf of persons engaged in
28 the business of providing transient accommodations or hotel rooms
29 located in this State the tax for transactions solely consummated
30 through the transient space marketplace. For not less than four years
31 following the end of the calendar year in which the transaction
32 occurred, the transient space marketplace shall maintain the
33 following data for those transactions consummated through the
34 transient space marketplace:

35 (A) The name of the person who provided the transient
36 accommodation or hotel room;

37 (B) The name of the customer who procured occupancy of the
38 transient accommodation or hotel room;

39 (C) The address, including any unit designation, of the transient
40 accommodation or hotel room;

41 (D) The dates and nightly rates for which the consumer procured
42 occupancy of the transient accommodation or hotel room;

43 (E) The municipal transient accommodation registration number,
44 if applicable;

45 (F) A statement as to whether such booking services will be
46 provided in connection with (i) short-term rental of the entirety of
47 such unit, (ii) short-term rental of part of such unit, but not the
48 entirety of such unit, and/or (iii) short-term rental of the entirety of

1 such unit, or part thereof, in which a non-short-term occupant will
2 continue to occupy such unit for the duration of such short-term
3 rental;

4 (G) The individualized name or number of each such
5 advertisement or listing connected to such unit and the uniform
6 resource locator (URL) for each such listing or advertisement,
7 where applicable; and

8 (H) Such other information as the Division of Taxation may by
9 rule require.

10 The Division of Taxation may audit transient space marketplaces
11 as necessary to ensure data accuracy and enforce tax compliance.

12 (j) "Hotel" means a building or portion of a building which is
13 regularly used and kept open as such for the lodging of guests.
14 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
15 boarding house or club, whether or not meals are served, but does
16 not include a transient accommodation.

17 (k) "Occupancy" means the use or possession or the right to the
18 use or possession, of any room in a hotel or transient
19 accommodation.

20 (l) "Occupant" means a person who, for a consideration, uses,
21 possesses, or has the right to use or possess, any room in a hotel or
22 transient accommodation under any lease, concession, permit, right
23 of access, license to use or other agreement, or otherwise.

24 (m) "Permanent resident" means any occupant of any room or
25 rooms in a hotel or transient accommodation for at least 90
26 consecutive days shall be considered a permanent resident with
27 regard to the period of such occupancy.

28 (n) "Room" means any room or rooms of any kind in any part or
29 portion of a hotel or transient accommodation, which is available
30 for or let out for any purpose other than a place of assembly.

31 (o) "Admission charge" means the amount paid for admission,
32 including any service charge and any charge for entertainment or
33 amusement or for the use of facilities therefor.

34 (p) "Amusement charge" means any admission charge, dues or
35 charge of a roof garden, cabaret or other similar place.

36 (q) "Charge of a roof garden, cabaret or other similar place"
37 means any charge made for admission, refreshment, service, or
38 merchandise at a roof garden, cabaret or other similar place.

39 (r) "Dramatic or musical arts admission charge" means any
40 admission charge paid for admission to a theater, opera house,
41 concert hall or other hall or place of assembly for a live, dramatic,
42 choreographic or musical performance.

43 (s) "Lessor" means any person who is the owner, licensee, or
44 lessee of any premises, tangible personal property or a specified
45 digital product which the person leases, subleases, or grants a
46 license to use to other persons.

47 (t) "Place of amusement" means any place where any facilities
48 for entertainment, amusement, or sports are provided.

1 (u) "Casual sale" means an isolated or occasional sale of an item
2 of tangible personal property or a specified digital product by a
3 person who is not regularly engaged in the business of making retail
4 sales of such property or product where the item of tangible
5 personal property or the specified digital product was obtained by
6 the person making the sale, through purchase or otherwise, for the
7 person's own use.

8 (v) "Motor vehicle" includes all vehicles propelled otherwise
9 than by muscular power (excepting such vehicles as run only upon
10 rails or tracks), trailers, semitrailers, house trailers, or any other
11 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
12 designed for operation on the public highways.

13 (w) "Persons required to collect tax" or "persons required to
14 collect any tax imposed by this act" includes: every seller of
15 tangible personal property, specified digital products or services;
16 every recipient of amusement charges; every operator of a hotel or
17 transient accommodation; every transient space marketplace; every
18 marketplace facilitator; every seller of a telecommunications
19 service; every recipient of initiation fees, membership fees or dues
20 for access to or use of the property or facilities of a health and
21 fitness, athletic, sporting or shopping club or organization; and
22 every recipient of charges for parking, storing or garaging a motor
23 vehicle. Said terms shall also include any officer or employee of a
24 corporation or of a dissolved corporation who as such officer or
25 employee is under a duty to act for such corporation in complying
26 with any requirement of this act and any member of a partnership.

27 (x) "Customer" includes: every purchaser of tangible personal
28 property, specified digital products or services; every patron paying
29 or liable for the payment of any amusement charge; every occupant
30 of a room or rooms in a hotel or transient accommodation; every
31 person paying charges in the nature of initiation fees, membership
32 fees or dues for access to or use of the property or facilities of a
33 health and fitness, athletic, sporting or shopping club or
34 organization; and every purchaser of parking, storage or garaging a
35 motor vehicle.

36 (y) "Property and services the use of which is subject to tax"
37 includes: (1) all property sold to a person within the State, whether
38 or not the sale is made within the State, the use of which property is
39 subject to tax under section 6 or will become subject to tax when
40 such property is received by or comes into the possession or control
41 of such person within the State; (2) all services rendered to a person
42 within the State, whether or not such services are performed within
43 the State, upon tangible personal property or a specified digital
44 product the use of which is subject to tax under section 6 or will
45 become subject to tax when such property or product is distributed
46 within the State or is received by or comes into possession or
47 control of such person within the State; (3) intrastate, interstate, or
48 international telecommunications sourced to this State pursuant to

1 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
2 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
3 delivered in this State for use in this State; (6) utility service sold,
4 exchanged or delivered in this State for use in this State; (7) mail
5 processing services in connection with printed advertising material
6 distributed in this State; (8) (Deleted by amendment, P.L.2005,
7 c.126); and (9) services the benefit of which are received in this
8 State.

9 (z) "Director" means the Director of the Division of Taxation in
10 the State Department of the Treasury, or any officer, employee or
11 agency of the Division of Taxation in the Department of the
12 Treasury duly authorized by the director (directly, or indirectly by
13 one or more redelegations of authority) to perform the functions
14 mentioned or described in this act.

15 (aa) "Lease or rental" means any transfer of possession or
16 control of tangible personal property for a fixed or indeterminate
17 term for consideration. A "lease or rental" may include future
18 options to purchase or extend.

19 (1) "Lease or rental" does not include:

20 (A) A transfer of possession or control of property under a
21 security agreement or deferred payment plan that requires the
22 transfer of title upon completion of the required payments;

23 (B) A transfer of possession or control of property under an
24 agreement that requires the transfer of title upon completion of
25 required payments and payment of an option price does not exceed
26 the greater of \$100 or one percent of the total required payments; or

27 (C) Providing tangible personal property or a specified digital
28 product along with an operator for a fixed or indeterminate period
29 of time. A condition of this exclusion is that the operator is
30 necessary for the equipment to perform as designed. For the
31 purpose of this subparagraph, an operator must do more than
32 maintain, inspect, or set-up the tangible personal property or
33 specified digital product.

34 (2) "Lease or rental" does include agreements covering motor
35 vehicles and trailers where the amount of consideration may be
36 increased or decreased by reference to the amount realized upon
37 sale or disposition of the property as defined in 26 U.S.C.
38 s.7701(h)(1).

39 (3) The definition of "lease or rental" provided in this subsection
40 shall be used for the purposes of this act regardless of whether a
41 transaction is characterized as a lease or rental under generally
42 accepted accounting principles, the federal Internal Revenue Code
43 or other provisions of federal, state or local law.

44 (bb)(Deleted by amendment, P.L.2005, c.126).

45 (cc) "Telecommunications service" means the electronic
46 transmission, conveyance, or routing of voice, data, audio, video, or
47 any other information or signals to a point, or between or among
48 points.

1 "Telecommunications service" shall include such transmission,
2 conveyance, or routing in which computer processing applications
3 are used to act on the form, code, or protocol of the content for
4 purposes of transmission, conveyance, or routing without regard to
5 whether such service is referred to as voice over Internet protocol
6 services or is classified by the Federal Communications
7 Commission as enhanced or value added.

8 "Telecommunications service" shall not include:

- 9 (1) (Deleted by amendment, P.L.2008, c.123);
- 10 (2) (Deleted by amendment, P.L.2008, c.123);
- 11 (3) (Deleted by amendment, P.L.2008, c.123);
- 12 (4) (Deleted by amendment, P.L.2008, c.123);
- 13 (5) (Deleted by amendment, P.L.2008, c.123);
- 14 (6) (Deleted by amendment, P.L.2008, c.123);
- 15 (7) data processing and information services that allow data to
16 be generated, acquired, stored, processed, or retrieved and delivered
17 by an electronic transmission to a purchaser where such purchaser's
18 primary purpose for the underlying transaction is the processed data
19 or information;
- 20 (8) installation or maintenance of wiring or equipment on a
21 customer's premises;
- 22 (9) tangible personal property;
- 23 (10) advertising, including but not limited to directory
24 advertising;
- 25 (11) billing and collection services provided to third parties;
- 26 (12) internet access service;
- 27 (13) radio and television audio and video programming services,
28 regardless of the medium, including the furnishing of transmission,
29 conveyance, and routing of such services by the programming
30 service provider. Radio and television audio and video
31 programming services shall include but not be limited to cable
32 service as defined in section 47 U.S.C. s.522(6) and audio and video
33 programming services delivered by commercial mobile radio
34 service providers, as defined in section 47 C.F.R. 20.3;
- 35 (14) ancillary services; or
- 36 (15) digital products delivered electronically, including but not
37 limited to software, music, video, reading materials, or ringtones.

38 For the purposes of this subsection:

39 "ancillary service" means a service that is associated with or
40 incidental to the provision of telecommunications services,
41 including but not limited to detailed telecommunications billing,
42 directory assistance, vertical service, and voice mail service;
43 "conference bridging service" means an ancillary service that links
44 two or more participants of an audio or video conference call and
45 may include the provision of a telephone number. Conference
46 bridging service does not include the telecommunications services
47 used to reach the conference bridge;

1 "detailed telecommunications billing service" means an ancillary
2 service of separately stating information pertaining to individual
3 calls on a customer's billing statement;

4 "directory assistance" means an ancillary service of providing
5 telephone number information or address information or both;

6 "vertical service" means an ancillary service that is offered in
7 connection with one or more telecommunications services, which
8 offers advanced calling features that allow customers to identify
9 callers and to manage multiple calls and call connections, including
10 conference bridging services; and

11 "voice mail service" means an ancillary service that enables the
12 customer to store, send, or receive recorded messages. Voice mail
13 service does not include any vertical service that a customer may be
14 required to have to utilize the voice mail service.

15 (dd) (1) "Intrastate telecommunications" means a
16 telecommunications service that originates in one United States
17 state or a United States territory or possession or federal district,
18 and terminates in the same United States state or United States
19 territory or possession or federal district.

20 (2) "Interstate telecommunications" means a
21 telecommunications service that originates in one United States
22 state or a United States territory or possession or federal district,
23 and terminates in a different United States state or United States
24 territory or possession or federal district.

25 (3) "International telecommunications" means a
26 telecommunications service that originates or terminates in the
27 United States and terminates or originates outside the United States,
28 respectively. "United States" includes the District of Columbia or a
29 United States territory or possession.

30 (ee) (Deleted by amendment, P.L.2008, c.123)

31 (ff) "Natural gas" means any gaseous fuel distributed through a
32 pipeline system.

33 (gg) "Energy" means natural gas or electricity.

34 (hh) "Utility service" means the transportation or transmission of
35 natural gas or electricity by means of mains, wires, lines or pipes, to
36 users or customers.

37 (ii) "Self-generation unit" means a facility located on the user's
38 property, or on property purchased or leased from the user by the
39 person owning the self-generation unit and such property is
40 contiguous to the user's property, which generates electricity to be
41 used only by that user on the user's property and is not transported
42 to the user over wires that cross a property line or public
43 thoroughfare unless the property line or public thoroughfare merely
44 bifurcates the user's or self-generation unit owner's otherwise
45 contiguous property.

46 (jj) "Co-generation facility" means a facility the primary
47 purpose of which is the sequential production of electricity and
48 steam or other forms of useful energy which are used for industrial

1 or commercial heating or cooling purposes and which is designated
2 by the Federal Energy Regulatory Commission, or its successor, as
3 a "qualifying facility" pursuant to the provisions of the "Public
4 Utility Regulatory Policies Act of 1978," Pub.L.95-617.

5 (kk) "Non-utility" means a company engaged in the sale,
6 exchange or transfer of natural gas that was not subject to the
7 provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to
8 December 31, 1997.

9 (ll) "Pre-paid calling service" means the right to access
10 exclusively telecommunications services, which shall be paid for in
11 advance and which enables the origination of calls using an access
12 number or authorization code, whether manually or electronically
13 dialed, and that is sold in predetermined units or dollars of which
14 the number declines with use in a known amount.

15 (mm) "Mobile telecommunications service" means the same as
16 that term is defined in the federal "Mobile Telecommunications
17 Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

18 (nn) (Deleted by amendment, P.L.2008, c.123)

19 (oo) (1) "Sales price" is the measure subject to sales tax and
20 means the total amount of consideration, including cash, credit,
21 property, and services, for which personal property or services are
22 sold, leased, or rented, valued in money, whether received in money
23 or otherwise, without any deduction for the following:

24 (A) The seller's cost of the property sold;

25 (B) The cost of materials used, labor or service cost, interest,
26 losses, all costs of transportation to the seller, all taxes imposed on
27 the seller, and any other expense of the seller;

28 (C) Charges by the seller for any services necessary to complete
29 the sale;

30 (D) Delivery charges;

31 (E) (Deleted by amendment, P.L.2011, c.49); and

32 (F) (Deleted by amendment, P.L.2008, c.123).

33 (2) "Sales price" does not include:

34 (A) Discounts, including cash, term, or coupons that are not
35 reimbursed by a third party, that are allowed by a seller and taken
36 by a purchaser on a sale;

37 (B) Interest, financing, and carrying charges from credit
38 extended on the sale of personal property or services, if the amount
39 is separately stated on the invoice, bill of sale, or similar document
40 given to the purchaser;

41 (C) Any taxes legally imposed directly on the consumer that are
42 separately stated on the invoice, bill of sale, or similar document
43 given to the purchaser;

44 (D) The amount of sales price for which food stamps have been
45 properly tendered in full or part payment pursuant to the federal
46 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

47 (E) Credit for any trade-in of property of the same kind accepted
48 in part payment and intended for resale if the amount is separately

1 stated on the invoice, bill of sale, or similar document given to the
2 purchaser.

3 (3) "Sales price" includes consideration received by the seller
4 from third parties if:

5 (A) The seller actually receives consideration from a party other
6 than the purchaser and the consideration is directly related to a price
7 reduction or discount on the sale;

8 (B) The seller has an obligation to pass the price reduction or
9 discount through to the purchaser;

10 (C) The amount of the consideration attributable to the sale is
11 fixed and determinable by the seller at the time of the sale of the
12 item to the purchaser; and

13 (D) One of the following criteria is met:

14 (i) the purchaser presents a coupon, certificate, or other
15 documentation to the seller to claim a price reduction or discount
16 where the coupon, certificate, or documentation is authorized,
17 distributed, or granted by a third party with the understanding that
18 the third party will reimburse any seller to whom the coupon,
19 certificate, or documentation is presented;

20 (ii) the purchaser identifies himself to the seller as a member of
21 a group or organization entitled to a price reduction or discount;
22 provided however, that a preferred customer card that is available to
23 any patron does not constitute membership in such a group; or

24 (iii) the price reduction or discount is identified as a third party
25 price reduction or discount on the invoice received by the purchaser
26 or on a coupon, certificate, or other documentation presented by the
27 purchaser.

28 (4) In the case of a bundled transaction that includes a
29 telecommunications service, an ancillary service, internet access, or
30 an audio or video programming service, if the price is attributable to
31 products that are taxable and products that are nontaxable, the
32 portion of the price attributable to the nontaxable products is
33 subject to tax unless the provider can identify by reasonable and
34 verifiable standards such portion from its books and records that are
35 kept in the regular course of business for other purposes, including
36 non-tax purposes.

37 (pp) "Purchase price" means the measure subject to use tax and
38 has the same meaning as "sales price."

39 (qq) "Sales tax" means the tax imposed on certain transactions
40 pursuant to the provisions of the "Sales and Use Tax Act,"
41 P.L.1966, c.30 (C.54:32B-1 et seq.).

42 (rr) "Delivery charges" means charges by the seller for
43 preparation and delivery to a location designated by the purchaser
44 of personal property or services including, but not limited to,
45 transportation, shipping, postage, handling, crating, and packing. If
46 a shipment includes both exempt and taxable property, the seller
47 should allocate the delivery charge by using: (1) a percentage based
48 on the total sales price of the taxable property compared to the total

1 sales price of all property in the shipment; or (2) a percentage based
2 on the total weight of the taxable property compared to the total
3 weight of all property in the shipment. The seller shall tax the
4 percentage of the delivery charge allocated to the taxable property
5 but is not required to tax the percentage allocated to the exempt
6 property.

7 (ss) "Direct mail" means printed material delivered or distributed
8 by United States mail or other delivery service to a mass audience
9 or to addresses on a mailing list provided by the purchaser or at the
10 direction of the purchaser in cases in which the cost of the items are
11 not billed directly to the recipients. "Direct mail" includes tangible
12 personal property supplied directly or indirectly by the purchaser to
13 the direct mail seller for inclusion in the package containing the
14 printed material. "Direct mail" does not include multiple items of
15 printed material delivered to a single address.

16 (tt) "Streamlined Sales and Use Tax Agreement" means the
17 agreement entered into as governed and authorized by the "Uniform
18 Sales and Use Tax Administration Act," P.L.2001, c.431
19 (C.54:32B-44 et seq.).

20 (uu) "Alcoholic beverages" means beverages that are suitable
21 for human consumption and contain one-half of one percent or more
22 of alcohol by volume.

23 (vv) (Deleted by amendment, P.L.2011, c.49)

24 (ww) "Landscaping services" means services that result in a
25 capital improvement to land other than structures of any kind
26 whatsoever, such as: seeding, sodding or grass plugging of new
27 lawns; planting trees, shrubs, hedges, plants; and clearing and
28 filling land.

29 (xx) "Investigation and security services" means:

30 (1) investigation and detective services, including detective
31 agencies and private investigators, and fingerprint, polygraph,
32 missing person tracing and skip tracing services;

33 (2) security guard and patrol services, including bodyguard and
34 personal protection, guard dog, guard, patrol, and security services;

35 (3) armored car services; and

36 (4) security systems services, including security, burglar, and
37 fire alarm installation, repair or monitoring services.

38 (yy) "Information services" means the furnishing of information
39 of any kind, which has been collected, compiled, or analyzed by the
40 seller, and provided through any means or method, other than
41 personal or individual information which is not incorporated into
42 reports furnished to other people.

43 (zz) "Specified digital product" means an electronically
44 transferred digital audio-visual work, digital audio work, or digital
45 book; provided however, that a digital code which provides a
46 purchaser with a right to obtain the product shall be treated in the
47 same manner as a specified digital product.

- 1 (aaa) "Digital audio-visual work" means a series of related
2 images which, when shown in succession, impart an impression of
3 motion, together with accompanying sounds, if any.
- 4 (bbb) "Digital audio work" means a work that results from the
5 fixation of a series of musical, spoken, or other sounds, including a
6 ringtone.
- 7 (ccc) "Digital book" means a work that is generally recognized in
8 the ordinary and usual sense as a book.
- 9 (ddd) "Transferred electronically" means obtained by the
10 purchaser by means other than tangible storage media.
- 11 (eee) "Ringtone" means a digitized sound file that is downloaded
12 onto a device and that may be used to alert the purchaser with
13 respect to a communication.
- 14 (fff) "Residence" means a house, condominium, or other
15 residential dwelling unit in a building or structure or part of a
16 building or structure that is designed, constructed, leased, rented, let
17 or hired out, or otherwise made available for use as a residence.
- 18 (ggg) "Transient accommodation" means a room, group of
19 rooms, or other living or sleeping space for the lodging of
20 occupants, if obtained through a transient space marketplace,
21 including but not limited to residences or buildings used as
22 residences. "Transient accommodation" does not include: a hotel or
23 hotel room; a room, group of rooms, or other living or sleeping
24 space used as a place of assembly; a dormitory or other similar
25 residential facility of an elementary or secondary school or a
26 college or university; a hospital, nursing home, or other similar
27 residential facility of a provider of services for the care, support and
28 treatment of individuals that is licensed by the State; a campsite,
29 cabin, lean-to, or other similar residential facility of a campground
30 or an adult or youth camp; a furnished or unfurnished private
31 residential property, including but not limited to condominiums,
32 bungalows, single-family homes and similar living units, where no
33 maid service, room service, linen changing service or other
34 common hotel services are made available by the lessor and where
35 the keys to the furnished or unfurnished private residential property,
36 whether a physical key, access to a keyless locking mechanism, or
37 other means of physical ingress to the furnished or unfurnished
38 private residential property, are provided to the lessee at the
39 location of an offsite real estate broker licensed by the New Jersey
40 Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases
41 of real property with a term of at least 90 consecutive days.
- 42 (hhh) "Transient space marketplace" means **【an online】** a
43 marketplace through which a person may offer transient
44 accommodations or hotel rooms to individuals. A "transient space
45 marketplace" allows transient accommodations or hotel rooms to be
46 advertised or listed through **【an online】** a marketplace in exchange
47 for consideration **【or】** and provides a means for a customer to
48 arrange for the occupancy of the transient accommodation or hotel

1 room in exchange for consideration. A 'transient space marketplace'
2 shall not include **[an online]** a marketplace operated by or on
3 behalf of a hotel or hotel corporation that facilitates customer
4 occupancy solely for the hotel or hotel corporation's owned or
5 managed hotels and franchisees, and shall not include a travel
6 agency or an online travel agency.
7 (cf: P.L.2018, c.132, s.3)

8

9 8. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill amends the definition of “transient accommodation”
15 and “transient space marketplace” as they relate to the transient
16 accommodation rental taxes imposed by P.L.2018, c.49.

17 Pursuant to this bill, a transient accommodation rental will only
18 be subject to taxes if the rental is obtained through a marketplace. A
19 marketplace, online or otherwise, allows accommodations to be
20 listed and provides a means for arranging the rental of the
21 accommodation.

22 The marketplaces are required to collect and remit the taxes on
23 rentals on behalf of accommodation owners. No one else is required
24 to collect and remit the taxes, as accommodations not obtained
25 through a marketplace are not subject to taxes under the bill.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 3158

STATE OF NEW JERSEY

DATED: MAY 13, 2019

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3158.

This committee substitute makes transient accommodation taxes and fees only applicable whenever such an accommodation is rented through a transient space marketplace. The substitute also revises which transient space marketplaces are required to collect the taxes and fees on behalf of transient accommodation providers.

Under current law, all short term rentals are subject to taxes and fees, unless an exception applies. Furthermore, an online transient space marketplace is required to collect the taxes and fees on behalf of people providing transient accommodations on the marketplace, regardless of how many transactions the marketplace facilitates.

The substitute provides that only transient accommodations which are rented through a transient space marketplace will be subject to the taxes and fees. The substitute revises the definition of a transient space marketplace to mean a marketplace or travel agency, whether online or not, through which short term rentals may be offered, reserved, and paid. A marketplace in which someone exclusively offers their own short term rentals is excluded from the definition of transient space marketplace, so those short term rentals would not be subject to the taxes and fees. In addition, the substitute limits the marketplace collection requirement to transient space marketplaces that average at least 100 short term rental transactions a month in the State. Smaller marketplaces may still collect the taxes and fees on behalf of providers, but would not be statutorily required to do so.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3158**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3158 SCS, with committee amendments.

As amended, this bill makes the various taxes and fees that were extended to transient accommodations in 2018, applicable only to transient accommodations that are obtained through a transient space marketplace or that are professionally managed units. Under current law, all transient accommodations are subject to the taxes and fees, unless an exception applies.

A professionally managed unit is a short term rental that is owned or controlled by someone who owns or controls at least three rental units in the State. A transient space marketplace is a marketplace or travel agency, whether online or not, through which short term rentals may be offered and through which the rental may be arranged and paid. A marketplace in which someone exclusively offers their own short term rentals is not considered a marketplace and would not be subject to the taxes and fees as long as the short term rentals are not professionally managed units.

As amended, the substitute clarifies that the exception for transient accommodations whereby the key is provided at the site of a real estate broker only applies if the real estate broker facilitates the rental. The amended substitute also requires that local governments imposing the municipal hotel and motel occupancy tax on transient accommodations must provide a list of the transient accommodations located in the municipality to the State Treasurer, as they are required to do for hotels and motels.

COMMITTEE AMENDMENTS:

The committee amended the substitute bill to:

- 1) include “professionally managed units” among the short term rentals that are subject to the taxes;
- 2) eliminate the threshold requirement of an average of 100 occupancies per month as triggering the marketplace collection requirement;

3) clarify that the exclusion from the definition of transient accommodations for short term rentals of furnished or unfurnished private residential property whereby the key is provided at the site of a real estate broker requires that the real estate broker entirely facilitates the rental;

4) require that local governments imposing the municipal option tax provide a list of the transient accommodations located in the municipality to the State Treasurer;

5) provide that the bill will take effect upon enactment.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects an annual decrease in State revenues and a potential decrease in annual local revenues as a result of the bill limiting the categories of transient accommodation rentals on which several State and local government taxes and fees are either imposed or authorized to be imposed. However, the OLS lacks sufficient information to quantify the fiscal impacts.

Governor Murphy Signs Legislation Easing Taxation on Shore Rentals

08/9/2019

Bill Exempts Certain Rental Transactions from Taxes on Occupancy Charges

TRENTON – Governor Phil Murphy today signed legislation (A-4814) amending the transient accommodations law enacted last summer to provide relief for many shore renters by narrowing the scope of rentals that are subject to taxation.

The administration conducted a thorough legal and technical review to ensure that the legislation, as written, was not only feasible to implement, but more closely mirrors the original intent, which was to create parity throughout the rental industry by extending the existing tax on hotels and motels to certain short-term rentals, such as those done through online marketplaces.

“Our shore economy adds tremendous vitality and dynamism to New Jersey,” **said Governor Murphy**. “Access to affordable rental properties for visitors and income on rentals for homeowners are the backbone of that economy. Our public policies must be well-calibrated to allow this economy to thrive and grow.”

The amendment limits the scope of transient accommodations that are considered taxable under the law (P.L.2018, c.49) passed last year to apply only to rentals of professionally managed units and rentals obtained through a transient space marketplace or travel agency, under certain circumstances. Under the amendment, rentals that a homeowner facilitates directly, such as through local newspaper ads, personal referrals, or signage, will not be subject to the tax if the homeowner is collecting the rental payment themselves.

Primary sponsors of the legislation include Assembly members Joann Downey, John McKeon, John Armato, Bruce Land, Wayne DeAngelo, Eric Houghtaling, Vincent Mazzeo, Nancy Pinkin, Matthew Milam, Valerie Vainieri Huttie, and Senators Vin Gopal and Bob Andrzejczak.

“Over the past several months, we’ve listened to Jersey Shore homeowners – many of whom are still recovering from Hurricane Sandy – who are worried they’ll see far less summer guests this season as a result of the short term rental tax. Summer tourism is the heartbeat of the shore, and this law was never intended to hurt the private homeowners who help it grow and thrive,” **said Assembly Bill sponsors in a joint statement**.

“The bill signed into law today will help property owners who rely on word of mouth, signs, social media and longstanding customers to keep their rentals booked through the summer. It will help shore businesses keep customers flocking to their doors. And it will help tourists afford to have the vacation of their dreams right here at the Jersey Shore,” **the sponsors continued**.

“The summer rental business is a foundation of Monmouth County’s economy,” **said Senator Vin Gopal**. “As the 7th-largest employer in New Jersey, tourism has always been one of the Jersey Shore’s flagship enterprises. At a time of year when business should be booming, local homeowners have been struggling to fill rental slots for summer visitors. A bad summer at the shore could have a damaging ripple effect across our State’s entire economy, which is why this reform works to protect our traditional rental markets from the harmful provisions of this new tax, ensuring a brighter future for summer rentals up and down the coast.”

“The law was originally intended to apply to major commercial companies such as Airbnb but it ended up hurting private renters up and down the shore,” **said Senator Bob Andrzejczak**. “Folks that have been renting their shore homes to the same families for years aren’t doing it to make a fortune but more so to offset the cost of home ownership. The original law was never meant to hurt independent renters and luckily this legislation will correct things so that it no longer does. I am grateful Governor Murphy saw the value in this and took action on the

Local officials also touted the measure.

“I am happy to hear that Governor Murphy has repealed the Shore Rental Tax for Mom and Pop renters. These “word of mouth” rentals help people hold onto homes that have been families for generations. Hopefully this is a start for bipartisan support in Trenton for additional tax relief for NJ,” **said Brick Mayor John Ducey**.

“This legislation strikes the perfect balance between homeowners and loyal visitors,” **said Bradley Beach Mayor Gary Englestad**.

“Atlantic City and other shore towns are always sensitive to the needs of both residents and visitors, **said Atlantic City Mayor Frank Gilliam**. “The NJ Assembly bill regarding the short term rental tax is a step in the right direction. My administration hopes that the constituents feel that we are trying to balance what is important to residents with the what is important to the business community which fuels our economy in the summer season.”

“I, Mayor John Pallone of the City of Long Branch, support Bill A4814. Thank you to Governor Phil Murphy, Senator Vin Gopal, and Assembly Members Eric Houghtaling and Joann Downey for supporting this bill,” **said Long Branch Mayor John Pallone**.

“The bill that Governor Murphy signed today supports the people and businesses that make Point Pleasant Beach not only a great place to vacation, but a great community in which to live,” **said Point Pleasant Beach Mayor Stephen Reid**. “I look forward to the benefits that our community, and our Shore, will see.”

“Tourism is an integral part of the Wildwood community and is one that will prosper under this new legislation. I thank Governor Murphy for his willingness to help our community investing in the tourists, residents, and businesses of the Jersey Shore,” **said Wildwood Mayor Ernest Troiano Jr.**

“I am thrilled to see Governor Murphy sign legislation that will help stimulate tourism at the Jersey Shore, **said Seaside Heights Mayor Tony Vaz**. “Our tourists are a vital aspect of our local economy, and serve as the fuel that determines the success of the Seaside Heights community.”

Advocates for the rental community also praised the legislation.

“The NJ Shore Rentals Coalition is deeply gratified for the Governor’s decision to keep vacations at the shore affordable,” **said Denise Payne, President of the NJ Shore Rentals Coalition**. “By signing this bill into law the Governor is both proving New Jersey is a tourism friendly state and protecting the integrity of the business economy along the shore. The Coalition applauds the efforts of lawmakers throughout the state who recognized that this tax law needed to be corrected and worked together to make it happen.”

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